

**To:** Board

**For meeting on:** 30 September 2015

**Agenda item:** 14

**Report by:** Jason Dorsett, Finance, Reporting & Risk Director  
Yin Shi, Head of Sector Reporting

**Report on:** Quarterly report on the performance of the NHS foundation trust sector: 3 months ended 30 June 2015

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## Summary

1. The attached paper reports our findings from a review of the Q1 2015/16 performance of the 151 NHS licensed foundation trusts (NHSFTs) operating during this period. This includes one newly licensed foundation trust (Bradford District Care NHS Foundation Trust).

## Overview

2. Sustained financial and operational pressures led NHSFTs to expect that this financial year would be one of the toughest they had faced. During Q1 2015/16 they continued to miss key waiting-time targets, and the sector's financial performance deteriorated rapidly. NHSFTs ended the first three months of the financial year with a net deficit (before impairments and gains or losses on transfers) of £445m and an aggregate earnings before interest, tax, depreciation and amortisation (EBITDA) (earnings before interest, tax, depreciation and amortisation) margin of only 0.9%. Acute NHSFTs in aggregate reported an unprecedented negative EBITDA of -0.3%.
3. The current level of deficit is not affordable. Monitor is working with its national partners to provide intensive support to mitigate risks that NHSFTs face. We announced a package of interventions jointly with the NHS Trust Development Authority (NHS TDA) in June. We also wrote to all NHSFTs in August encouraging them to take a critical look at their plans and explore any further options to reduce their deficits. We announced details of controls on agency spending on 1 September 2015.
4. The detailed analysis is in the annex to this paper.

## Operational performance

### *Emergency care*

5. NHSFTs continued to underperform against the 95% target for accident and emergency (A&E) 4-hour waits in Q1 2015/16. During the quarter, 2.86m patients attended NHSFT A&E departments, which treated or admitted 94.5% of them within 4 hours. Although attendance in Q1 2015/16 was 4.6% higher than Q1 last year, the growth was mainly due to new NHSFTs and mergers and acquisitions. With these excluded, the like-for-like comparison suggested a 1.0% reduction, a further indication that there is no strong correlation between attendances and target performance.
6. NHSFTs attributed the underperformance to the sustained high level of emergency admissions. In Q1 2015/16, 560,000 patients (26.1%) attending a major NHSFT A&E unit needed further inpatient treatment, a similar level to previous winter months (Q4 2014/15). However, bed availability continued to affect patient flow. High bed-occupancy rates and delayed transfers of care resulted in over 29,000 trolley waits during the quarter, 35% higher than Q1 2014/15.
7. Q1 2015/16 saw NHSFT ambulance trusts responding to over 910,000 emergency and urgent calls, 11.6% more than in Q1 2014/15. Despite a rise in call volumes, ambulances were sent to only 459,475 callers, a 2% fall in journeys compared to Q1 2014/15. NHSFTs met both response-time targets for Red 1 (most time-critical) and Category A (life-threatening) calls, with performances of 76.7% and 95.3% respectively.
8. However, NHSFT ambulance trusts in aggregate failed the 75% target for Red 2 (serious but less time-critical) calls for the fourth consecutive quarter, with a performance of 73.9%. This was due to an ongoing dispatch-on-disposition pilot at South Western Ambulance Service NHS Foundation Trust (SWAST), which allowed call handlers extra time to triage calls. If SWAST's performance had been excluded, the sector would have met the Red 2 target this quarter with a performance of 76.1%.
9. Nationally, work is underway to ensure providers are prepared and have sufficient operational resilience to meet winter demand. Action included helping the worst-performing emergency care systems improve. Monitor led the development of an Emergency Care Improvement Programme helping the 27 systems with the highest risk achieve the A&E 4-hour wait target, and engaging NHSFTs to develop or assure operational improvement plans.

### *Elective care*

10. In June 2015, NHS England adopted Sir Bruce Keogh's recommendation and removed the admitted and non-admitted referral to treatment targets. However, the waiting-time target for incomplete pathways remains. NHSFTs met this by treating 93.1% of patients within 18 weeks compared to a requirement of 92%.

11. At the end of Q1 2015/16, the waiting list was almost 1.9m. This was an 8.9% increase on the same period last year. Excluding the impact of new NHSFTs and mergers and acquisitions, the underlying growth was 2.6%. Of those patients, 7.0% had been waiting longer than 18 weeks, including 226 patients waiting for over 52 weeks.
12. NHSFTs stated growing demand was a major challenge. Hence the average waiting time for patients on incomplete pathways rose to 6.1 weeks, three days longer than the previous quarter.
13. In addition, NHSFTs continue to perform poorly in providing timely diagnostic tests. The national target expects no more than 1% of patients to wait for a diagnostic test for over 6 weeks. However, the NHSFT sector has consistently failed this target since November 2013, citing demand pressures as the main reason. At the end of June 2015 over 480,000 patients were waiting for a test, 8.6% more than a year ago. Many NHSFTs told us that inadequate planned capacity and staff shortages prevented them meeting the growth in demand, and this in turn has had a significant impact on elective care and cancer performances.

#### *Cancer care*

14. NHSFTs continued to meet the cancer waiting-time standards of 62 days for screening services, 31 days for first treatment and 2 weeks for referrals for suspected cancer and exhibited breast symptoms during Q1 2015/16. But for the fifth consecutive quarter, NHSFTs failed to treat 85% of the patients referred by their GPs within 62 days, with a performance of 82.4% for the quarter.
15. For those 18,806 patients referred by GPs for urgent treatment, the median waiting time was 45 days, two days longer than in the previous quarter. Delays in diagnostic tests, especially endoscopy, have added pressure to achieving the 62-day cancer target. Nationally, Monitor, NHS TDA and NHS England have co-ordinated their approach to improving access to endoscopy services, including matching demand to spare NHS provider and independent sector capacity.

#### *C. difficile*

16. NHSFTs reported 794 *C. difficile* cases at Q1 2015/16, similar to the number reported in the previous quarter; 42% were confirmed as resulting from lapses in care, highlighting a need to continuously improve patient safety.

### **Financial performance**

#### *Overall performance*

17. NHSFTs in aggregate reported a year-to-date deficit, before impairments and transfers, of £445m at Q1 2015/16, which was £90m worse than plan and £96m more than the full-year deficit for 2014/15. This rapid decline in NHSFTs' financial performance saw 118 NHSFTs in deficit this quarter, with a total gross deficit of £485m. This was offset by just £40m gross surplus at 33 trusts.

18. NHSFTs consider 2015/16 to be a far tougher year financially than 2014/15. This was reflected in that most of the deficit incurred in Q1 being planned. However, the EBITDA margin at 0.9% this quarter raises concerns for the sector's long-term financial sustainability. More worryingly, acute NHSFTs reported an aggregate negative EBITDA (-0.3%) for the first time.

#### *Performance drivers*

19. The severe deterioration in the margin was largely due to higher pay costs (0.8% over plan) while revenues were on plan. NHSFTs were unable to recruit as many permanent staff as planned, resulting in trusts hiring extra agency staff to fill vacancies and maintain safe staffing levels. The extra costs of agency staff (£192m) and bank shifts (£76m) outweighed the £213m savings from vacancies. This had a knock-on impact on NHSFTs' planned cost improvement programmes (CIPs), as 65% of the £64m shortfall in CIPs during the quarter was pay-related.
20. In June, Monitor and NHS TDA wrote to providers outlining new rules on using agency staff in the NHS. We consulted on a set of measures to reduce spending on agency staff in August. These include mandating the use of certain framework agreements and stipulating a maximum spend on agency staff for each trust. We aim to implement these measures by October.

#### *Forecast outturn*

21. Performance in the first quarter of the financial year is usually worse than the rest of the year. In addition, Monitor's package of interventions announced on 2 June would not have had a significant impact on the Q1 position as it was still in the early stage of implementation. Reflecting their financial pressures, NHSFTs are projecting a full year deficit of £1.01bn, which is £80m worse than the plan of £931m for the year.

#### *Cash and capex*

22. NHSFTs retained £3.7bn cash at the end of this quarter, £90m above plan, despite the fact that the sector's cash generated from operations was weakened by the deficit. NHSFTs achieved this by a combination of managing working capital and reducing planned capital expenditure (capex). Total cash held at the quarter end was sufficient for 30 days' operation. However, when taking short-term liabilities into consideration, net current assets were £1.08bn, equivalent to 8.7 days' operation, almost six days shorter than a year ago.
23. Although NHSFTs underspent against their capital plan by 20% in Q1 2014/15, this was lower than the historical average, confirming that NHSFTs continued to invest in improving care infrastructure. NHSFTs met this level of capex mainly through cash reserves built up from previous years' surpluses and borrowings. This is not sustainable as NHSFTs' financial resilience continues to erode.

## Regulatory actions

24. Given unprecedented operational and financial challenges, the number of NHSFTs triggering concerns under our risk assessment framework rose steadily quarter on quarter. In response, we have increased our regulatory effort through formal and informal actions, and continue to focus on minimising concerns about quality, financial and operational performance that may adversely impact patient care.
25. At the time of reporting, 37 trusts are subject to formal regulatory actions, five more than Q4 2014/15. The change was a result of our decision to take enforcement action at six trusts due to deteriorating financial performances, and one trust (Bolton NHS Foundation Trust) returning to compliance.
26. Between April and September 2015, we have launched nine new investigations, three due to governance concerns, five due to financial concerns, and one due to both. Investigation opened in July at Cambridge University Hospitals NHSFT has since led to regulatory action being taken at the trust. Further evidence is being gathered at 16 trusts to determine whether a formal investigation should be opened.
27. In response to the annual plans, we have also carried out two-day visits to 47 NHSFTs. Subsequently we wrote to all NHSFTs asking them to improve their financial performance and setting those NHSFTs forecasting a deficit a stretch target. In many case these measures have been taken instead of launching a formal regulatory investigation. We are continuing to pursue these initiatives in order to improve the aggregate financial position of the NHSFT sector.
28. After significant improvement to care quality at the Queen Elizabeth Hospital King's Lynn NHS Foundation Trust and Tameside Hospital NHS Foundation Trust, they have been formally removed from special measures but are still subject to enforcement action.
29. However, the Care Quality Commission raised concerns about staffing levels, delays in outpatient treatments and governance failings at Cambridge University Hospitals NHSFT, and rated the services at the trust "inadequate" in September 2015. We have now put the trust in special measures.
30. We continue to monitor NHSFTs' performance and review our regulatory approach to decide what further actions are required. In addition, we continue to increase our improvement capacity to offer support to NHSFTs. Our new Provider Sustainability Directorate is engaging with selected NHSFTs at the request of Provider Regulation teams to develop or assure operational improvement plans.

**Making a difference for patients:**

*Monitor's mission is to make the health sector work better for patients. By reviewing foundation trusts' plans we provide insight into the future performance of the foundation trust sector. This informs our regulation of individual foundation trusts by highlighting areas of risk that we follow up in order to identify and resolve problems that may affect patients earlier than would be the case without this insight. Our reports on the sector also inform our other statutory functions and our thought leadership work.*

**Public Sector Equality Duty:**

*Monitor has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. In drafting this report consideration has been given to the impact that the issues dealt with might have on these requirements and on the nine protected groups identified by this Act. It is anticipated that the issues dealt with in this paper are not likely to have any particular impact upon the requirements of or the protected groups identified by the Act because this paper is primarily provided for information rather than for decision.*

**Exempt information:**

*None of this report is exempt under the Freedom of Information Act 2000.*