

Mr Christopher Baker
Chair
Aintree University Hospital NHS Foundation Trust
Trust HQ
Aintree Lodge
Lower Lane
Liverpool
L9 7AL

31 May 2013

Dear Christopher

**Aintree University Hospital NHS Foundation Trust (the “Trust”) -
Notification of decision to open a formal investigation into compliance
with the Trust’s Licence**

1. Further to our discussion with you and Catherine Beardshaw on 28 May 2013, I am writing to inform you of Monitor’s decision to open a formal investigation into the Trust’s compliance with its licence. This investigation has been opened due to governance concerns arising as a result of your Trust’s failures to meet its C. Difficile and MRSA full year targets, as well as the A&E 4 hour waiting time and Referral to Treatment admitted (‘RTT’) targets. As part of this investigation, we are inviting the Trust to a meeting at our offices to discuss these concerns. This meeting will assist us in determining what if any further regulatory action may be appropriate.
2. The purpose of this letter is to:
 - 2.1 state the issues which have led to our concerns; and
 - 2.2 confirm the process Monitor will adopt in assessing the extent of these concerns, whether they may amount to a breach of the Trust’s licence, and any regulatory action which may be appropriate in consequence.
3. **Monitor’s concerns**
 - 3.1 Monitor is concerned about the Trust’s failure to meet the following mandatory targets which Monitor uses as indicators to assess the quality of governance at foundation trusts:
 - 3.1.1 the Trust breached its full year C. Difficile target for 2012/13 and its full year MRSA target for 2012/13 both of which also exceeded the de minimis levels as set out in the *Compliance Framework 2012/13*. There was some evidence of patient-to-patient contamination, which you have informed us is being further investigated;

3.1.2 the Trust has breached the A&E 4 hour waiting time target in Q4 2012/13; and

3.1.3 the Trust has also breached the RTT admitted target of 90% in Q4 2012/13.

3.2 Monitor also has concerns that the Trust is flagged as an outlier for SHMI and for high in deaths in low risk conditions (per the Dr Foster mortality metrics published in November 2012) and notes that the Trust's analysis into these mortality rates are yet to be concluded.

4. Monitor's process to determine what if any regulatory action is appropriate in relation to its concerns

4.1 Monitor considers all relevant factors in assessing what if any regulatory action is appropriate in relation to its concerns, in outline:

- Trust Board assurance that the Trust is able to continue to meet the conditions of its licence;
- Regard to Monitor's published guidance relating to the requirements of the licence; and
- The factors set out in Monitor's Enforcement Guidance.

4.2 Monitor would like to explore its concerns at a meeting with you and other members of your Board, to assist it in its consideration of whether the matters outlined above could indicate a breach of the Trust's licence and if so what if any regulatory action is appropriate in response. As part of the investigation, Monitor may also seek further information from the Trust and consider relevant information from third parties such as the CQC.

5. Next Steps

5.1 The meeting will be held at Monitor's offices at a time and date to be arranged with you by telephone call following receipt of this letter. It will provide an opportunity for the Trust Board to explain and provide evidence as to the nature and strength of its governance arrangements and its consideration of the matters set out in Sections 3 and 4 of this letter.

5.2 The meeting will form part of the evidence to be taken into account by Monitor in determining what if any regulatory action is appropriate and therefore also part of the evidence for any formal enforcement action that may be considered appropriate in line with Monitor's Enforcement Guidance.

- 5.3 The meeting will be chaired by Monitor and attended by members of Monitor's relationship management team for the Trust, together with a representative from Monitor's legal team. We expect attendees from the Trust to include yourself, the Chief Executive, the Head of Performance, either the Medical Director or Director of Nursing, the Chair of the Assurance Committee (or other Quality committee) and any other members of the Trust Board you deem appropriate.
- 5.4 In order that we may consider fully and carefully any information the Trust may wish to make available to us ahead of our meeting, you are asked to provide us with the information set out in Appendix A, to reach us by 17 June 2013.
- 5.5 Following our meeting, we will be able to confirm potential next steps and associated timings. Should formal enforcement action be considered, the Trust will be afforded further opportunity for engagement or representations as appropriate, in line with Monitor's Enforcement Guidance.

If you have any queries relating to the matters set out in this letter, please contact your relationship manager, Tania Openshaw on 020 7340 2462 or by email Tania.Openshaw@monitor.gov.uk.

Yours sincerely



Adam Cayley
Regional Director – Midlands

On behalf of:
Yvonne Mowlds
Regional Director - North

cc.: Catherine Beardshaw, Chief Executive

Appendix A

Information requested from the Trust regarding performance

1. Board minutes (both parts) from May 2012 to present;
2. Assurance Committee and/or Clinical Effectiveness Sub-Committee (or other relevant quality committee) minutes from May 2012 to present;
3. Any Board reports or papers (or any committee reports or papers) wholly or partly in relation to C. Difficile, MRSA, RTT or A&E performance since May 2012;
4. Any external reports relating to C. Difficile, MRSA, RTT or A&E performance commissioned by the Trust (including scoping documents for such reviews);
5. Latest versions of your C. Difficile, MRSA, RTT and A&E recovery or action plans;
6. Any relevant internal or external investigation/reports in relation to mortality data (e.g. related to SHMI and deaths in low risk conditions) analysis; and
7. Any other information considered relevant by the Trust Board.