

1 May 2012

Clair Chilvers
Chair
Gloucestershire Hospitals NHS Foundation Trust
1 College Lawn
Cheltenham
GL53 7AG

By email

Dear Clair

**Gloucestershire Hospitals NHS Foundation Trust ('the Trust')
National Health Service Act 2006: section 52: failing NHS foundation trusts**

NOTIFICATION OF MONITOR BOARD DETERMINATION RE INTERVENTION

1. Further to our letter to you of 10 April 2012 indicating that further regulatory action in relation to the Trust was under consideration, I am writing to inform you of the decision of Monitor's Board, taken at its meeting on 27 April 2012. Monitor's Board decided to use its formal powers of intervention under section 52 of the National Health Service Act 2006 (the "Act"), to address the concerns outstanding following its decision to find the Trust in significant breach of its Authorisation on 30 September 2009, primarily about the Trust's failure to achieve sustainable compliance with the Accident and Emergency target and related matters.
2. As indicated previously, this decision is the conclusion of a rapid decision-making process, involving timescales tailored to the need for swift regulatory consideration.
3. I should be grateful if you will ensure that this letter and its enclosures are shared with your Board of Directors and Council of Governors.
4. In accordance with its statutory obligations, Monitor will make this decision and the requisite section 52 notice (copy attached) public and a copy of this letter will be on Monitor's website today.
5. **Monitor's Board Decision Regarding Intervention**
 - 5.1 Monitor's Board considered all relevant and available evidence, including all the Trust's responses to the concerns raised in our letter of 10 April 2012. The evidence upon which the Board's decision was based is summarised in Appendix 1 to this letter. Monitor's Board noted from this evidence that some of the specific areas of concern relating to the original

decision to find the Trust in significant breach in September 2009 remain unresolved.

- 5.2 As a result of the nature and extent of these continuing concerns and the manner and pace at which they have been addressed by the Trust and its Board, Monitor's Board considered whether to use its formal and discretionary powers of intervention under section 52 of the Act. In considering this, the Board assessed whether use of its formal powers was reasonable, proportionate and appropriate, and whether it was likely to result in a swifter and sustainable return by the Trust to compliance with its terms of Authorisation to safeguard prompt access to safe and quality care by the Trust's patients.
- 5.3 In making its decision on whether to intervene, the Board took full account of the nature and significance of the continued breaches of the two conditions of Authorisation (Condition 2 General Duty – Economy, Efficiency and Effectiveness, and Condition 6, Healthcare Standards and Targets) represented by the continued failure to achieve sustainable compliance with the Accident and Emergency target and of the possible intervention options.
- 5.4 Monitor's Board agreed that in all these circumstances, including the length of time since its finding of significant breach in relation to these matters, its concerns about the effectiveness and pace of the Trust's actions to date and the need for particular control and oversight by Monitor of the Trust's actions to return to compliance with its terms of Authorisation, it should use its formal powers under section 52 of the Act. Further details are set out in the section 52 Notice at Appendix 2 of this letter.

6. **Next Steps**

- 6.1 As the Trust continues to be in significant breach of conditions 2 and 6 of its Authorisation, it will continue to be red rated for governance risk.
- 6.2 The Trust is required to report regularly on progress towards its return to compliance with its terms of Authorisation, including progress on the implementation of actions required by the section 52 notice and on addressing Monitor's residual concerns as set out in the Appendix to this letter.
- 6.3 In particular, as outlined in Appendix 1, Monitor has residual concerns relating to governance. We are aware that the Trust planned to commission a review of Board effectiveness. Monitor requires that the Board effectiveness review proceeds as proposed by the Trust, with the direct involvement of Monitor in agreeing the scope of the review and being a joint addressee of the report. Pending the Board effectiveness review report, we require the Trust to ensure that it has in place enhanced Board reporting arrangements, to ensure that all material performance

failures and risks are promptly and appropriately reported to and managed by the Board.

- 6.4 The Trust is required to continue to meet with Monitor on a regular basis until we are assured that the Trust is returning to full and sustainable compliance with its Authorisation.
- 6.5 Monitor's Compliance Director, Merav Dover, will be in urgent contact with you to agree milestones for the matters specified in the enclosed section 52 Notice and other steps detailed in this letter.

If you have any questions in relation to this letter, please contact the Trust Portfolio Director Anne Fillis on 020 7340 2548 or by email Anne.Fillis@monitor-nhsft.gov.uk.

Yours sincerely



David Bennett
Chairman and Interim Chief Executive

Cc.: Frank Harsent – Trust Chief Executive
Jan Stubbings – NHS Gloucestershire Chief Executive
Mary Hutton – NHS Gloucestershire Deputy Chief Executive
Ian Biggs – CQC Deputy Regional Director
Sir Ian Carruthers - Chief Executive SHA
Martin Horwood – MP Cheltenham
Richard Graham – MP Gloucestershire
Lawrence Robertson – MP Tewksbury
Neil Carmichael – MP Stroud
Geoffrey Clifton-Brown – MP The Cotswolds
Mark Harper – MP The Forest of Dean

Encs.

Appendix1: Matrix of Evidence
Appendix 2: s52 notice

Appendix: Evidence Matrix

Area of concern / breach	Key issues	Actions taken / committed	Gaps and residual concerns
<p>A. Financial Performance</p> <p><i>Breach of condition 2 (economy, efficiency, effectiveness)</i></p>	<p>Original concerns relating to weak finances are detailed in the letter to the Trust, dated 11 September 2009.</p> <p>There was concern that the Trust had not successfully delivered its planned cost saving in the past. In 2008/09, the Trust delivered c.1% cost improvement programs (CIP) as a % of operating costs. The Trust's other key metrics were also relatively weak, in particular an EBITDA margin of 5.2%.</p>	<p>The Trust has achieved sustained financial improvement during its time in significant breach.</p> <p>2009/10</p> <p>In 2009/10, the year in which it was found in significant breach, the Trust delivered a full-year deficit of £5.1m, £5.6m below plan, FRR 2 and a weak liquidity position. The Trust recruited a new Finance Director in August 2009, since when there has been increased financial rigour.</p> <p>2010/11</p> <p>Following discussion with Monitor, the Trust commissioned an external firm to undertake a review of the Trust's CIP program and associated governance arrangements. This provided assurance that the Trust's financial plans were deliverable.</p> <p>Financial performance for 2010/11 of £0.7m surplus, £0.2m above plan, demonstrated a significant improvement against the £5.1m deficit recorded 12 months earlier. The Trust also delivered its planned CIP in full (c.7%), improved to FRR 3 and improved its EBITDA margin to 6.4%. The Trust's liquidity position however remained weak.</p>	<p>The Trust has demonstrated good governance in the strengthening of its financial position and the manner in which this has been achieved.</p> <p>This has included consistent delivery of high levels of CIPs over a three year period and the associated improvements in liquidity and EBITDA margin, which is now above the sector average.</p> <p>This appears to have been achieved without demonstrable impact on the quality of care provided by the Trust, which is not currently subject to CQC or other third party concerns.</p> <p>As a result, pending any adverse indicators from the further work that is required to secure the Trust's position going forward, Monitor currently has no outstanding concerns regarding finance or financial governance at the Trust.</p>

		<p>2011/12</p> <p>As part of its 2011/12 planning, the Trust commissioned its internal auditors (PWC) to undertake a review of the assumptions underpinning its CIP plan, which concluded that the underlying assumptions for 2011/12, and the programme management and governance arrangements to deliver savings, were robust.</p> <p>For 2011/12, the Trust is forecasting it will maintain its FRR 3 and delivering an improved surplus of £0.8m against a £2m surplus plan (pre-exceptional). This demonstrates a sustained improvement in the two years since being found in significant breach. Of the Trust's 11/12 planned CIP of 4.9%, 4.2% is forecasted, EBITDA margins are expected to have been broadly maintained at 6.2% and the Trust's liquidity metric is expected to improve from 2 to 3.</p> <p>Investment in Emergency care</p> <p>The Trust has stated that expenditure related to its Accident and Emergency (A&E) departments has increased by 29.3% over the past 4 years.</p> <p>In the event that additional resources are required, the budget for 2012/13 includes an increased winter pressures reserve plus a general contingency reserve of £4m.</p>	
<p>B. Non achievement of the A&E target</p> <p><i>Breach of condition 6</i></p>	<p>The Trust has failed the A&E target for 5 out of the 10 quarters since being found in significant breach on 30 September 2009. Before this date, the Trust had failed 5 out of</p>	<p>In 2009, the Trust introduced the UTOPIA project aimed at making improvements to the quality and consistency of clinical care delivered by the emergency care pathway.</p>	<p>Risk of non-compliance with Emergency Care Standards:</p> <p>Albeit that the Trust has met its own trajectory</p>

<p><i>(Healthcare and other standards)</i></p>	<p>the previous 6 quarters.</p> <p>The A&E target was reduced from 98% to 95% from Q1 2010/11. Subsequently, the Trust complied with this lower target for the following three quarters. The underlying actual performance has deteriorated since Q1 2010/11 and the Trust has now breached the lower target in three subsequent quarters.</p> <p>A&E performance across both acute sites is the poorest it has been since being found in significant breach (Q4 2011/12 to 20 March is 90.6%), with A&E performance across the Trust's main sites deteriorating on average year on year for the past 3 years.</p> <p>The Trust has informed us that they took comfort from their performance against the lower target in Q1 and Q2 2010/11 and believed that this demonstrated that improvements had been made. That said, the performance data available to the Trust as well as to Monitor shows limited improvement in the underlying performance at the two main hospital sites.</p> <p>Historically, the CGH site has driven overall poor performance. However, as of Q2 2011/12 the GRH site has also been on a downward trajectory failing the A&E target in Q3 (93.6%) and Q4 to date (92%).</p> <p>Despite the Trust having taken a number of actions since being found in significant breach and notwithstanding the lowering of the target, the Trust is still not able to meet the A&E target sustainably and has not been</p>	<p>This has focused on making changes to the way patients were treated on arrival within the A&E departments.</p> <p>The Trust obtained external support from the PCT in February 2009 and commissioned consultants in March 2010 to provide a further 4 to 6 months of additional support.</p> <p>The Trust has introduced a project to reduce the average length of stay at the Trust (the "ticket home scheme").</p> <p>In December 2011, the Trust undertook an analysis of the breaches within A&E. Following this, the Trust developed a revised action plan.</p> <p>The Trust is working with other providers and commissioners within the local health economy, in order to deliver improvements in the community which are expected to help ease the levels of admissions, and help discharge for the high number of medically fit patients that often occupy beds within both hospitals.</p> <p><u>Trust's most recent submissions to Monitor (April 2012)</u></p> <p>Risk of non-compliance with Healthcare Standards:</p> <p>The Trust acknowledges that it has been slow to address the deteriorating performance against the 4 hour target, but considers that it is now focussed and determined to address the issues. Following the review by the IST, the Trust has revised its Emergency Care Action Plan and this now incorporates the findings of</p>	<p>for improving its performance, the Trust is currently failing the A&E target by a significant margin (91.5% as opposed to 95%) and is forecasting that this will continue until at least Q1 2012/13. In addition, the trajectory which was provided following a number of requests for such submissions from Monitor, was based on the emergency care action plan, signed off by the Trust in February 2012, that has subsequently been found to be wanting in many respects in its aim of delivering sustainable compliance with the target by June 2012. It is noted that the current estimates for achieving compliance with the target may alter following the Trust's work with the IST.</p> <p>The Trust Board has itself acknowledged that it has been slow in addressing in a sustainable way its performance against the A&E target. It has yet to fully demonstrate that it now has sufficient grip on the issues to rectify the position and at appropriate pace. This is notwithstanding that Monitor has repeatedly put the Trust on notice that it would consider what further regulatory action could be necessary, should the Trust not demonstrate that it was taking the necessary steps that could lead to sustainable compliance at an appropriate pace.</p> <p>Non delivery of action plans that can deliver sustainable achievement of the A&E 4 hour target</p> <p>The Trust has not been able to develop and implement an effective plan to turnaround emergency care to achieve the target sustainably in a timely way.</p>
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	<p>able to demonstrate the required improvement in performance.</p> <p>The Trust's most recent action plan to deliver sustainable performance against the A&E target was approved by the Board in February 2012. This plan has since been amended to reflect the recommendations of the NHS IMAS Intensive Support Team (the "IST") who conducted a review of the urgent and emergency care pathways across both acute hospital sites at Monitor's recommendation.</p> <p>This review notes the positive actions that the Trust has taken and wider improvements from the Utopia project. However, the bulk of the review (13 out of 16 pages), provides a raft of recommendations (42 in total) to the Trust to improve the emergency care pathway, in order to sustainably deliver the A&E target. As well as the number of recommendations, what is of concern is the extent of their coverage. These recommendations cover a range of issues including staffing levels; pathways; effectiveness of processes and absence of accountability. The breadth and depth of the areas where further actions are required, demonstrate that the original action plan would not have delivered the anticipated return to compliance that the Trust forecast.</p>	<p>the IST review. The Trust has indicated that it is on track to meet its own planned trajectory to meet the A&E target as at April 2012 (91.5%).</p> <p>The Trust's action plan sets out a range of interventions, but the Trust believes that sustainable delivery of performance will need to be supported by significant cultural change in the area. This is because the Trust has identified that not all of the workforce are aligned to corporate goals, that behaviours need to change to deliver the corporate vision and that some staff need to be more proactive and embrace improvement and innovation. The Trust plans to deliver this through executive support; a clear articulation of expectations; training; effective communication; rewards and recognition, and aligning structure to strategic goals.</p> <p>The Trust recognises the challenge this poses but believes it has delivered this type of change in other areas including :</p> <ul style="list-style-type: none"> • Improvements to services for patients with learning disabilities (endorsed by peer review) • Patient safety – with quantified improvement in outcome measures for hospital acquired infection, Venous Thromboembolism (VTE) and diabetes <p>Further cultural change is planned to be supported through a number of initiatives including the Trust's 'U Lead' Programme for senior clinicians.</p>	<p>The IST review of the Trust's most recent (February 2012) action plan for emergency care exposed wide ranging issues with the management of patients across the Emergency care pathway within the Trust, that had not been identified by the Trust and which until rectified, will mean that the Trust cannot meet the A&E target sustainably.</p> <p>With the support of the IST, it appears that the Trust now has a full diagnosis of the problems affecting the performance of A&E and emergency care which should lead to sustained and tangible improvements if successfully implemented.</p> <p>It is not clear from past performance that the Trust will be able to implement the necessary changes with sufficient pace to effect an appropriate turnaround without continued external support, and without direction and oversight from Monitor. Many of the important changes since January 2012 have only taken place following increased scrutiny and direction from Monitor.</p> <p>Finally, whilst we note that there is a need to address the underlying issues in the whole health economy which are contributing to failure of the A&E target, it is Monitor's view that the Trust Board has been unduly focussed on areas which are outside their direct control, at the expense of sufficient focus on fixing the issues within its control in its own hospitals, which could have led to sustainable achievement of the A&E target sooner.</p>
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		<p>cubicles and expansion of resuscitation facilities.</p> <p>Focus on Delivering Internal Improvements</p> <p>The need to secure significant improvements in the internal emergency care pathway is recognised and the Board is committed to this being their focus.</p> <p>The Trust will continue to work with partners to influence the performance of the parts of the pathway over which it considers it has limited control. The commitment of the organisations in Gloucestershire to accept the support from the IST for a Whole Systems Diagnostic will allow the Trust to focus on its own internal emergency care action plan.</p> <p>Improved Scrutiny of the Plan by the Board</p> <p>The Vice Chair of the Board has been identified as the Non-Executive lead for the programme to provide Board level challenge on a day to day basis. The Non-Executive lead will have visibility of the weekly reports to the ECB and will highlight areas for further work in weekly “challenge meetings” with the Executive Lead.</p> <p>The Trust’s NEDs had a meeting with the IST on 12 April 2012, in which the findings of the IST report were disseminated.</p> <p>Monthly structured progress reports to be provided to the Finance and Performance Committee and the Board. These are expected to give the Board clear understanding of risks.</p>	
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<p>C. Lack of executive and operational leadership (at executive and other levels) and capacity resulting in an inadequate response to the issues identified within A&E</p> <p><i>Breach of condition 2 (economy, efficiency, effectiveness)</i></p>	<p>Monitor is concerned that the Trust has not made sufficient progress in dealing with its A&E performance issues, which originally brought the Trust into significant breach. The issues of leadership, capacity and focus which existed at that stage more than two and a half years ago, do not appear to have been fully remedied. The Trust has not been able to credibly demonstrate that it can turnaround A&E performance and deliver a sustainable compliance with the target.</p> <p>The Trust was satisfied with its performance against target in 2010/11. When the target changed in 2011/12 to remove mapped activity from the performance figures, the underlying performance of the two key acute sites was exposed.</p> <p>The Trust has consistently provided unrealistic and unsupportable timeframes for when it expects to sustainably deliver the A&E target:</p> <ul style="list-style-type: none"> At the Progress Review Meeting on 18 October 2011, the Trust assured Monitor that it was confident of being able to achieve the A&E target during the winter period (both Q3 and Q4 of 2011/12) and on a sustainable basis going forward. This is despite the performance in early October 2011 being very poor. The sharp decline in A&E performance which began in October has endured. The Trust's February Board approved an A&E Action plan which forecasts a return to A&E compliance in June 2012. This 	<p>The IST has noted that the Executive team have been engaged and have accepted fully the recommendations that the IST presented.</p> <p><u>Trust's most recent submissions (April 2012)</u></p> <p>Enhanced Executive and Operational Leadership and Capacity to Deliver the plan; and</p> <p>Alignment of the Responsibilities for Delivery of the Plan and Operational Performance</p> <p>The Nursing Director has been released from her responsibilities to provide dedicated executive leadership for delivery of the emergency care action plan and the A&E 4 hour target, as Programme Director for Emergency Care. The IST has agreed to work alongside her to support implementation of the recommendations.</p> <p>The role and scope of the Executive Programme Director for Emergency Care has been defined as has its relationship to the role of the Service Delivery Director.</p> <p>The organisational structure to deliver compliance with the A&E target has changed. An experienced specialty director has been appointed as the new Chief of Service for Medicine and processes are in place to recruit a Divisional Operational Director for medicine to provide general management leadership and support. This was one of the key</p>	<p>Issues relating to Operational Leadership:</p> <p>We note that the Trust has introduced changes in the executive and operational leadership of emergency care, including dedicating an existing executive level director to the turnaround required, and that there have been associated organisational structure changes. We note also the Trust's submission, that this and other associated changes and actions will achieve the necessary turnaround.</p> <p>We are aware that the Trust has previously made changes in operational structure which have been ineffective in delivering improvements in emergency care performance.</p> <p>Accordingly, while we note and welcome the Trust's recent increased focus and efforts, we nevertheless consider that continued external support and further direction and oversight by Monitor are necessary at this stage.</p> <p>This is because thus far the Trust has not demonstrated that it is able to develop and deliver an effective recovery plan in response to serious issues that have been identified, without external support and without such direction and oversight by Monitor.</p> <p>Failure to fully acknowledge the extent of failings within the Trust relating to the continued failure to meet the A&E target</p> <p>We are concerned that the Trust appears, at least until recently, to have placed undue emphasis for their failure to deliver sustained improvements to factors outside their control. It</p>
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	<p>Action Plan was presented in advance of an external review by the IST and the Board accepted the Executive's representations that the plan was robust and sufficient.</p> <ul style="list-style-type: none"> The A&E action plan approved by the Trust in February 2011 did not demonstrate a linkage between the findings of the A&E breach analysis and the actions proposed. The actions provided are not linked to expected benefits at a granular level, raising concern around how measurable the outcomes of each action are. <p>There have been significant changes to the Trust's action plan since the IST review, with the inclusion of a number of new actions and improvements to existing actions. This demonstrates that the Trust's own Board approved action plan was insufficient to achieve the improvements it forecast to make by June 2012.</p> <p>The Trust had not originally planned to take any external assurance of their action plan despite a historical failure to deliver benefits from previous actions undertaken. At Monitor's request, the Trust engaged the IST to review the issues affecting non-performance against the A&E target. The IST report raises a number of concerns relating to the management of the Emergency Care pathway. We can conclude from this that the Trust's A&E plan would not have delivered the expected improvement.</p>	<p>recommendations from the IST review.</p> <p>Following the resignation of the Chief Operating Officer, the distribution of responsibilities at executive level has been reviewed. The role of Deputy Chief Executive (including performance reporting to the Board) has been assigned to the Director of Finance, who has also taken on responsibility for Estates and Facilities. This will ensure a separation of the responsibility for assurance of operational performance and delivery at Board level.</p> <p>The role of Senior Information Risk Officer and responsibility for Information Governance has transferred to the Director of Clinical Strategy.</p> <p>A Director of Service Delivery will be appointed with responsibility purely for the performance of the 4 clinical divisions. The Director of Service Delivery will work in triumvirate alongside the Director of Nursing and Medical Director to implement the strategy for Urgent & Emergency care.</p> <p>In addition, the Director of Nursing will be supported by the project manager of the UTOPIA project, and by senior clinicians from Medicine and Surgery, as well as the Specialty Director for the Emergency Department. This team will report to the Quality Committee and the Finance & Performance Committee each fortnight. The Trust believes that this team has extensive demonstrable success in leading similar change projects.</p> <p>Additional support to deliver the plan has been secured through the continuing involvement of</p>	<p>is clear from the IST report that the Trust has to date failed to satisfactorily address all the issues within its own control.</p>
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	<p>The IST report includes 42 recommendations and lists the following key issues:</p> <ul style="list-style-type: none"> • Excessive clinical risk at the front doors [of ED] relative to the rest of the Trust; • Current Emergency Department nurse staffing levels and skill mix in both EDs; • Restricted Acute Care Unit / Short Stay facility in Gloucester hospital; • Need to implement a Trust wide plan to increase Ambulatory Emergency Care; • Lack of specialty medical teams support to both EDs; • Variability in specialty team engagement to deliver robust 7 day working; • Lack of appropriate medical cover to support winter pressure wards; • Need to develop a Trust wide vision to improve emergency care pathways; and • Continued focus on reducing “medically fit” patients delayed in hospital. <p>The Trust has previously placed undue emphasis on factors beyond their control, attributing previous failures to factors such as unplanned impacts of winter, unplanned demand and community capacity constraints. We note that these are relevant and important external factors that could impact on the Trust’s actions in this regard. That said, the IST review has demonstrated that there are significant improvements which could be made by the Trust internally to improve the Emergency pathway and hence</p>	<p>the IST which will be working across the whole care pathway and from consultants to support process redesign and performance reporting.</p> <p>There is funding for additional project management and information analysis support.</p> <p>Improving the emergency care pathway has been identified as the highest priority in the Trust’s Annual Plan and Quality Account, and will be a corporate objective for 2012/13, and reflected in the personal objectives of all staff.</p> <p>The appraisal system will hold to account all staff for their contribution to the achievement of this objective.</p> <p>Addressing the Clinical Risks</p> <p>The clinical risks to patients at the “front door” are now recognised by the Board.</p> <p>The IST report and its recommendations were discussed at the March meeting of the Board. The Trust has stated that it was recognised that the adverse clinical incidents had been appropriately investigated at the time, and categorised as Serious Untoward Incidents (SUIs). The reporting of the outcome of the review to the Board and the identification of any residual risk was scheduled to follow the consideration by a joint commissioner/ provider group. Although this was consistent with the Trust’s Risk Management Policy it was recognised by the Trust that this had delayed the presentation of this report to the Board. The SUI report has been reviewed by the</p>	
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	<p>performance against the A&E target.</p>	<p>Quality Committee.</p> <p>The Director of Safety is amending the Risk Management Policy to ensure rapid escalation of serious clinical risks to the Board. The clinical risk of delay in treating patients arriving at A&E during periods of high demand is now included in the corporate risk register with proposed mitigations relating to the relevant interventions in the emergency care action plan.</p> <p>As highlighted within the IST's January 2012 report, the need to address the nurse staffing levels and skill mix in A&E is recognised by the Trust, and the Trust's plans for this will be discussed and shared with the IST.</p> <p>Operational Management of the Wider Hospital</p> <p>The Trust has received a number of favourable opinions on its operational management from a range of external agencies including:</p> <ul style="list-style-type: none"> • The CQC Quality and Risk Profile for February 2012 declare no risks to compliance with any of the 16 essential standards for quality and safety, above a "low amber". • Internal Auditors' Follow Up Report on the Self Certification Review carried out by Deloitte. • PWC review of Escalation Processes in the Winter Plan. 	
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		<p>Summary of Governance Improvements:</p> <ul style="list-style-type: none"> • There have been significant changes to Board Performance reports with the addition of trend analysis and exception reports as well as reports on changes to regulatory requirements: this is still work in progress but significantly better than previous reporting. • Performance reporting at the Board will now be undertaken by the Finance Director and Deputy Chief Executive, which means the Director of Service Delivery, will focus on accounting to the Board for performance. • The Board Development Programme has been in existence since early 2011: this includes a Board Effectiveness Review to be brought forward from October 2012 at Monitor's request. • The Chair's discretionary fund for external opinions for the Board has increased. • PWC report on Self Certification review to Audit Committee was very favourable. • The two main relevant sub-committees have been significantly improved - the Quality Committee in 2011, and the new Finance and Performance Committee since 	
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		<p>January 2012.</p> <ul style="list-style-type: none"> • NED involvement in relevant work has significantly increased (in health and safety for example as well as in emergency care). • There are revised strategic objectives with annual targets introduced in 2011. • There have been significant improvements to the Council of Governors, including the introduction of performance reports and programmes for development and induction introduced in 2011. 	
<p>D. Board leadership and effectiveness and risk management</p> <p><i>Breach of condition 5 (governance)</i></p> <p>Monitor has not found the Trust to be in significant breach of condition 5 (governance) of its terms of Authorisation at this stage</p>	<p>The Board failed to ensure that the issues resulting in the Trust breaching the A&E target when found in significant breach had been addressed in a timely manner. The Trust was originally found in significant breach in September 2009 and whilst performance appeared to improve (as the target reduced) the underlying performance at the two key acute sites did not.</p> <p>Notwithstanding the changes in personnel in the Trust leadership, there has not been a sufficiently robust response to the issues arising in A&E. With the Trust appearing to place undue emphasis on external factors that could have impacted on the breaches of the target, and relying on unjustified assurance that sustainable compliance had been delivered when the target reduced from</p>	<p>The Chair has made a number of changes to the Non-Executives since her appointment and has introduced a Board development programme. The Chair believes that the level of non-executive challenge has improved since the Trust was found in significant breach.</p> <p>The Trust has confirmed that the review of Board effectiveness planned for the autumn will be brought forward and the scope of the work will be agreed with Monitor.</p> <p>The Trust Chair has informed Monitor that the Trust will ensure that there is accountability for the failure to remedy the A&E issues.</p> <p>The Board believe that a number of key improvements have been made at the Trust since the current Non-Executive team have been in place; including an improvement in the</p>	<p><u>While Monitor has not found the Trust to be in significant breach of condition 5 (governance) of its terms of Authorisation at this stage, we have the following residual concerns.</u></p> <p>Insufficient Board Challenge and Weak Board Assurance relating to the Trust's A&E performance:</p> <p>We remain concerned that there may continue to be insufficient challenge to the Executive on operational risks and planning. The Board has accepted earlier action plans and Executive assurances that these would deliver improvements, despite no significant improvement being demonstrated previously following similar assurances.</p> <p>The Trust Board had again approved the action</p>

	<p>98% to 95%.</p> <p>The Board approved A&E action plan was submitted to Monitor on 28 February 2012, approximately five months after the Trust's A&E performance started to substantially deteriorate in October 2011. This plan was neither timely nor sufficient.</p> <p>Furthermore, at the 18 October 2011 Progress Review Meeting the Trust assured Monitor that it would achieve the A&E target at Q3 and Q4 and on a sustainable basis going forwards, despite the deterioration in performance having commenced at that time. This leads to concerns over the Trust's ability and processes to accurately and realistically forecast and manage A&E performance.</p> <p>There is no evidence that the Board has sufficiently scrutinised or challenged previous plans nor is there evidence that it has been accountable for the sustained failure to improve A&E performance.</p> <p>Board Reporting and Risk Management</p> <p>There is concern that key A&E related risks are not being adequately reported to the Trust Board, thus preventing the Board from conducting effective risk evaluation and monitoring:</p> <ul style="list-style-type: none"> The Trust March Board paper provides no analysis or commentary of the findings of the IST report and how this reflects on the Trust's A&E services. 	<p>Trusts finances and an improvement in the Trusts levels of healthcare acquired infections. It is the Trust Board's view that the quality of care at the Trust is good.</p> <p>The Trust Chair will hold a weekly teleconference with the Programme Director for the emergency care pathway to review and challenge progress.</p> <p><u>Trust's most recent submissions since April 2012</u></p> <p>Insufficient Board Challenge and Weak Board Assurance: Review of Board discussions since October 2011</p> <p>At the October 2011 Board Meeting the poor A&E performance in September and remedial actions were discussed. The Chief Executive was asked to conduct an analysis and present to the November Board.</p> <p>The continuing failure to meet the target in October was discussed at the November Board along with a paper from the Chief Executive analysing the position at CGH. This analysis led to the 4 areas of focus within the February 2012 emergency care action plan.</p> <p>At the December Board there had been some improvement in A&E performance although it remained below target (monthly performance in November 2011 was 93%).</p> <p>At the January Board, the continuing failure to</p>	<p>plan presented by the Executive in February 2012, and were assured that this was sufficient to deliver improvements against the A&E 4 hour target. The IST review has demonstrated that the Board could not have had the necessary level of assurance to approve the February plan, one that could lead to sustainable compliance as it stood with the target in June 2012.</p> <p>Despite previous failures to effectively implement action plans, the Trust Board had not itself identified the need to commission external assurance of the most recent action plan and only did so when requested by Monitor.</p> <p>Inadequate Board Reporting relating to A&E target performance:</p> <p>We are concerned that the Board is not presented with sufficient analytical information in order for the Board to understand and manage risks. The Board is not sighted on all key metrics in order for the Board to understand the failure of some patient flows through the Trust. We are concerned also that this has not been identified as an issue by the Board itself. The Trust made changes to its performance reporting in September 2011 which has proved ineffective in raising appropriately the seriousness of poor performance issues in emergency care for the attention of Non executives.</p> <p>Whilst the IST report was received after the Trust's submission deadline for the March Board, it was received by the Trust prior to the</p>
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