



Independent Regulator
of NHS Foundation Trusts

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14 October 2009

Julie Burgess
Chief Executive Officer
Heatherwood and Wexham Park Hospitals NHS Foundation Trust
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By e-mail

Dear Julie

Heatherwood and Wexham Park Hospitals NHS Foundation Trust (the Trust) National Health Service Act 2006 (the Act): exercise of section 52 intervention powers

I am writing to you following the special board meeting of Monitor's Board that took place yesterday.

In summary and following the decision of Dr. Tim Lincoln to stand down as Chair of the Trust, my Board decided to exercise the formal powers of intervention available to it under section 52 of the Act to:

- appoint an Interim Chair of the Trust, and
- direct the Trust to appoint an Interim Medical Director in the absence of a current substantive appointee to that executive position on the Trust's Board.

Background

Monitor's Board noted that financial and operational performance at the Trust declined rapidly during quarter 4 in 2008/09, with the governance rating falling to red and the financial risk rating (FRR) falling to 2. The FRR2 reflected in the main significant activity ahead of contracts unsupported by underlying data which both disguised operating inefficiency and ultimately was not paid for by your main commissioner. The Trust's financial forecasts identified likely delivery of

significant financial deficits in the current financial year and challenging cash pressures. The Trust currently has the lowest FRR of 1.

Formal escalation meetings were held on 13 May and 2 July 2009. In summary, these demonstrated that the Trust had failed to undertake measures that could have reasonably been expected within an acceptable timescale to:

- identify and address the significant decline in operational and financial performance in 2008/09;
- identify and address the challenges faced as a consequence of breaches of its contractual arrangements with its commissioners; and
- put in place the skills, structure and capacity to address the issues faced in that financial year, and in the development of stable recovery plans for the current and future years.

In consequence, Monitor's Board at its meeting on 29 July 2009 determined that the Trust was in significant breach of its Authorisation and by letter dated 30 July 2009 required the Trust to:

- deliver against the short term stabilisation plan presented to Monitor on 2 July 2009;
- design an effective plan to recover the Trust's position on a sustainable basis; and
- put in place the necessary skills and resources to deliver those plans.

The Trust committed to deliver a recovery plan as required by Monitor and to address the gaps in skills and resources by the end of September 2009.

On 8 October 2009, the Trust attended a meeting at Monitor's offices and presented its recovery plan, consisting of:

- actions to strengthen the governance process;
- actions to improve coding and data quality;
- a series of CIP programmes to be delivered in 2009/10;
- further un-validated productivity and income recovery actions for 2010/11; and
- an estates strategy to release some costs and cash from 2010/11 onwards.

The Trust accepted that, taken together, the above did not return the Trust to a sustainable position and that substantial deficits were forecast in 2009/10 and future years. The Trust did highlight further actions, including an initial analysis of potential productivity gains that it believed may be sufficient to return the Trust to a breakeven position on an ongoing basis, but these were not fully developed and the opportunity and risk had not been quantified.

The plan also described the ongoing need to make permanent appointments to a number of key executive posts. In particular, given the need to ensure recovery actions do not negatively impact the services provided by the Trust, the current lack of a substantive Medical Director (the current Medical Director being appointed on an acting basis only) was of concern. The acting Medical Director would continue in this role, however, until a longer term solution was identified.

In summary, based on the presentation and ensuing discussions, it was clear that the plan reflected a considerable level of activity undertaken by the Trust since March 2009 in an attempt to stabilise its short-term position. However it did not amount to a deliverable plan to return the Trust to a sustainable financial and operational position longer term, whilst at the same time ensuring that the safety of patients and the quality of care is protected. Furthermore, the presentation highlighted a number of executive positions on the Trust board which remained without a substantive appointment. In addition, on 12 October 2009 Monitor received written notice from Dr. Tim Lincoln of his decision to stand down as Chairman of the Trust.

Monitor's Board meeting on 13 October 2009

Monitor's Board met on 13 October 2009 at a specially convened meeting to consider the Trust's current position, including the leadership of the Trust in light of the resignation of the Chair, and possible use of Monitor's formal powers of intervention to facilitate recovery by the Trust within an acceptable timeframe.

Monitor's Board noted progress made by the Trust since July 2009, but also the outstanding areas of key concern, including the capacity of the Board to design and implement a credible and deliverable medium to long term action plan to recover stability at the Trust on a sustainable basis. The Board noted in particular:

- the Chair's resignation and lack of a substantive Medical Director left the Trust without crucial elements of both strategic and operational leadership to address the shortcomings of the existing recovery plan and develop a revised and sustainable plan for the future;
- the Trust being unlikely to be able to make credible succession arrangements within an acceptable timeframe;
- the Trust failing to meet the conditions set out in Monitor's aforesaid letter of 30 July 2009; and
- that, accordingly, the Trust continued to be in significant breach of its Authorisation due to its failure to exercise its functions effectively, efficiently and economically.

In this context, Monitor's Board made the decision to exercise its formal powers under section 52 of the Act to:

- (i) appoint with immediate effect Chris Langley as Interim Chairman of the Trust for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct; and
- (ii) require the Trust to appoint as Interim Medical Director, such person as Monitor may direct, for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct.

Monitor's section 52 notice is enclosed, together with its short annex. I shall be grateful if you will ensure that this documentation is immediately shared with your Board of Directors and Council of Governors.

The Trust should be aware that Monitor is obliged by law to make public the fact of this statutory intervention: the requisite notice under section 52 of the 2006 Act will be on Monitor's website today, together with this letter.

The governors will know that, by law, they have the power to appoint or remove the chair and that within the Trust's constitution, the process of appointment of the Trust's executive team is defined. These powers and those of Monitor to intervene at its discretion where there is a significant breach of the Trust's authorisation do not, however, conflict. Where justified by the evidence and the circumstances, Monitor will move very swiftly to use its regulatory powers to arrest failure, protect patient care and ensure the Trust returns to a stable and well governed position from which it may properly discharge its range of healthcare duties. Monitor may only use its formal powers in the circumstances outlined above and any appointments made in consequence are interim only. Once the Trust is no longer in significant breach of its authorisation, Monitor would expect the Trust's formal recruitment processes to supersede any interim arrangements at the appropriate time. Monitor will determine what interim term is appropriate for each of these roles in the context of the challenges the Trust faces and in our discretion.

Finally, I consider it important to state that currently Monitor has no reason for concerns as to the quality of the clinical care provided by the Trust to its patients. The formal intervention relates to matters of strategic and operational leadership capacity. The aim of this formal intervention is to assist the Trust in acquiring the Board and leadership skills it will need in order to successfully deliver a recovery plan.

Any questions should go to Edward Lavelle, Regulatory Operations Director
(direct line: 020 7340 2492).

Yours sincerely

A handwritten signature in black ink that reads "William Moyes". The signature is written in a cursive style and is underlined with a single horizontal stroke.

William Moyes
Executive Chairman

CC: Trust Board of Director
Trust Council of Governors