

15 July 2009

The Board of Directors and The Board of Governors
c/o The Trust Secretary
Mid Staffordshire NHS Foundation Trust
Stafford Hospital
Weston Road
Stafford
ST16 3SA

By email

Dear Sirs

Mid Staffordshire NHS Foundation Trust (the Trust): intervention by Monitor under section 52 of the National Health Service Act 2006 (the 2006 Act)

You will be aware that, by notice under section 52 of the 2006 Act and dated 3 March 2009, Monitor exercised its intervention powers to:

- appoint with immediate effect David Stone 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
- require the Trust to appoint as Interim Chief Executive, such person as Monitor may direct, for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may further direct.

On 5 March 2009, Monitor required the Trust to appoint Eric Morton as Interim Chief Executive on terms agreed between the Trust and Monitor. Monitor's powers under the 2006 Act are to make interim and not permanent appointments.

Since the notice, Mr Morton has remained Chief Executive of Chesterfield Royal Hospital NHS Foundation Trust. His interim appointment at the Trust is due to complete at the end of July 2009 when Mr Morton, in accordance with his and his

Board's wishes, will return to Chesterfield Royal Hospital NHS Foundation Trust on a full time basis.

The Trust's Board of Governors at its general meeting yesterday appointed on a substantive basis Sir Stephen Moss as Chair of the Trust with effect from 1 August 2009. Accordingly, Mr Stone's interim appointment by Monitor will cease on 31 July 2009. Mr Stone will continue in his position as Chair at Sheffield Teaching Hospitals NHS Foundation Trust.

Three months ago the Trust commenced a process for the recruitment of a Chief Executive and also three non executive directors. The process with regard to the non executive directors is continuing, and the Trust expects to secure high quality appointments by the end of July.

However, following final interviews on 22 June 2009 the Trust decided not to appoint a Chief Executive from amongst the short-listed candidates. This was disappointing for the Trust Board, for patients, staff and the local community. The Trust acknowledges that it needs a strong and effective Chief Executive to continue the good progress which is now being made at the Trust in difficult circumstances to return the hospital to one which we can all be confident is delivering high quality and safe care to all of its patients. Further, that person must also continue to rebuild trust in the hospital, and critically to enhance patient, staff and community confidence.

You are fully aware, following the notice of 3 March 2009, that as the regulator, Monitor has the statutory power to remove any or all of a trust's board of directors, including any or all of the non-executives, and to appoint interim directors in their place. This power is only to be exercised where particular circumstances exist: the trust must be failing to comply with a condition of its authorisation as a foundation trust, and the failure or failures must be considered by Monitor as "significant". Alternatively, the trust must have failed to comply with a condition of its authorisation, and is considered by Monitor as likely to do so again. The past failure must have been significant, and the likely repeat failure must also be significant. In both cases, Monitor has the discretion to act.

The Care Quality Commission has undertaken the first of its three formal checks on progress at the Trust on its action plan following the report of the Healthcare Commission in March 2009 and subsequent reviews by Professor Sir George Alberti and Dr David Colin-Thomé. In its report expected to be published on 20 July 2009, we believe that the Care Quality Commission is likely to conclude that progress has been made in line with what might have been reasonably expected given the scale of the actions required, although further actions are required, including the need to appoint a Chief Executive. Monitor agrees with this need, and has actively worked both to assist and support the Trust in its attempt to make such an appointment.

The Trust has not to date appointed a Chief Executive. Accordingly, my Board at its special meeting earlier today decided that further regulatory action was necessary.

At that meeting, my Board determined that, under section 52(1) (a) of the 2006 Act, the Trust is in significant breach of two conditions of its authorisation and that discretionary intervention was appropriate. My directors noted that, absent the recruitment to date by the Trust of a Chief Executive, in light of the imminent departure of Mr Morton, and the practicality of the Trust completing a further and comprehensive appointment process for that role within an acceptable timescale, there would be a serious vacuum in the most senior executive position at the hospital.

Accordingly, the Trust is in breach of condition 5(1) of its authorisation. This requires the Trust to have appropriate arrangements to provide comprehensive governance (in accordance with the relevant legislation) to maintain the organisational capacity necessary to provide mandatory healthcare goods and services for its patients. Without a Chief Executive in post to provide the necessary strategic and operational leadership and decision-making, there is a significant risk to the Trust's ability to deliver its plans to achieve a full recovery of the Trust. As such, the Trust would also not be compliant with its general duty under condition 2 of the authorisation to exercise its functions effectively and efficiently.

My Board concluded, therefore, that statutory intervention was again necessary. By formal notice under section 52(4) of the 2006 Act, Monitor:

- following his decision to return to Chesterfield Royal Hospital NHS Foundation Trust, by mutual consent, ends with effect from midnight on 31 July 2009 the interim appointment of Eric Morton as Interim Chief Executive of the Trust, and
- appoints with effect from 1 August 2009 Antony Sumara as Interim Chief Executive of the Trust, for a period of two years, and on such terms with respect to remuneration and allowances, as Monitor may direct.

The purpose of this formal intervention is to appoint for a period of two years a full-time Chief Executive to provide stable operational leadership to the Trust.

Monitor's decision to exercise its statutory powers of intervention in this way should in no way be viewed as providing any adverse comment upon the significant skills and competencies displayed by Mr Morton during his interim tenure at the Trust. The decision must be viewed in the context of Mr Morton's wish to return full time to his position at Chesterfield at the end of July. Monitor should like to take this formal opportunity of thanking sincerely both Eric Morton and David Stone for their very considerable contributions in difficult

circumstances to progress towards the Trust's recovery since their appointments in early March this year.

Monitor is aware and notes that the Trust and its Governors support the appointment of Mr Sumara.

The Trust should be aware that this further intervention is without prejudice to any further action which Monitor may take under the 2006 Act. Monitor is obliged to make public the fact of this intervention: the notice (and annex) under section 52 of the 2006 Act enclosed with this letter will be on Monitor's website today, together with a copy of this letter.

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'William Moyes', with a horizontal line drawn underneath it.

William Moyes
Executive Chairman

Encl: Notice dated 15 July 2009 under section 52 of the 2006 Act.