



Independent Regulator
of NHS Foundation Trusts

4 Matthew Parker Street
London
SW1H 9NP

T: 020 7340 2400
F: 020 7340 2401

E: enquiries@monitor-nhsft.gov.uk
W: www.monitor-nhsft.gov.uk

3 March 2010

Dr Walter Greaves
Chair
Milton Keynes Hospital NHS Foundation Trust
Standing Way
Ealestone
Milton Keynes
Buckinghamshire
MK6 5LD

By email

Dear Walter

**Milton Keynes Hospital NHS Foundation Trust ('the Trust')
National Health Service Act 2006: section 52: failing NHS foundation trusts**

I am writing to inform you of the decision of Monitor's Board made at its meeting on Tuesday 2 March 2010.

Summary of Monitor's Board decision

Monitor's Board decided that the Trust is in significant breach of condition 5 of its Authorisation, namely, the requirement to ensure the existence of appropriate arrangements to provide representative and comprehensive governance and to maintain the organisational capacity necessary to deliver the mandatory goods and services set out in Schedule 2 to its Authorisation.

In consequence, Monitor's Board agreed that it should use its formal powers under section 52 of the National Health Service Act 2006 (the Act) to require the Trust to:

- appoint external expert clinical advisers, to be agreed with Monitor, to assist the Foundation Trust to accelerate the delivery of necessary improvements within its maternity service.

The notice of exercise of intervention powers under section 52 of the Act (the Notice) is enclosed. I should be grateful if you will ensure that this documentation is immediately shared with your Board of Directors and the Trust's Members' Council.

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

Monitor's Board's conclusion was reached after consideration of all relevant and available evidence including, in particular:

- the evidence described in our letter to the Trust dated 11 January 2010;
- the Care Quality Commission's 'Summary of progress against intervention' published in January 2010 (the January 2010 report) and its response to Monitor's direct enquiries;
- information provided by the Trust in its letter to Monitor of 20 January 2010 and at the formal escalation meeting with Monitor on 29 January 2010 and in subsequent calls; and
- our letter of 15 February 2010 and the Trust's response of 18 February 2010.

Further, in considering its decision, Monitor's Board also took into account the progress made by the Trust and the actions it has taken to endeavour to rectify some of the serious concerns in respect to maternity services. In particular, Monitor's Board noted the following:

- four of the twelve recommendations of the Healthcare Commission's December 2008 report (the December 2008 report) into maternity services at the Trust had been fully met as at September 2009;
- changes to timescales attached to the action plan in respect of the December 2008 report were agreed with Milton Keynes PCT;
- the Trust's efforts to recruit additional midwives and to appoint a consultant midwife; and
- the appointment of an external adviser to provide an independent review of clinical governance across the divisions at the Trust.

Details of Monitor's Board decision

Condition 5 of the terms of Authorisation

Monitor's Board considered whether there was a breach of condition 5 of the Trust's terms of Authorisation. The Board noted the specific areas of concern raised by the executive, namely: effective, timely and pro-active design and implementation of maternity action plans, the effectiveness of Board assurance processes and Board and clinical leadership.

Monitor's Board noted evidence contained in the January 2010 report by the Care Quality Commission that the Trust had failed by September 2009 to make sufficient progress against eight out of the twelve recommendations of the December 2008 report. In particular, it noted three recommendations where significant further action was required. The Board also noted that the December 2008 report followed two earlier reports into maternity services: one by Milton Keynes PCT in September 2007 and another by the Healthcare Commission in January 2008. Specific actions which have still not been implemented from these reports include the recruitment of a consultant midwife and the recruitment of a sufficient number of additional midwives.

Monitor's Board noted that although the Trust had an action plan to deal with the twelve recommendations of the December 2008 report, it failed to ensure actions to address these recommendations in a timely manner and in particular deliver the desired improvements to patient care. Notably, Milton Keynes' Deputy Coroner's narrative verdict concluded that system failures remained in place in May 2009 and were a contributory factor in the death of baby Ebony McCall.

Monitor's Board acknowledged the recent progress made by the Trust, but decided that, in itself, this did not provide sufficient evidence that the Trust Board had taken sufficient steps to design, drive and oversee effective action plans to address the risks to its maternity service on a sustainable basis.

Monitor's Board accordingly agreed with the recommendation of the executive and concluded that the Trust is in significant breach of condition 5 of its Authorisation. The Trust will be red rated for governance risk with immediate effect.

Statutory intervention

Having determined the Trust to be in significant breach of condition 5 of its Authorisation, Monitor's Board then considered whether to use its formal powers of intervention under section 52 of the Act, and if so what action or actions it requires the Trust Board to undertake.

Monitor's Board acknowledged that any intervention must be likely to result in a timely and sustained recovery in the Trust's position and at the same time safeguard prompt access to high quality care by its patients. Taking account of the Trust's performance to date, Monitor's Board determined that it was both reasonable and proportionate for it to require formally the Trust to undertake the specific actions set out in the Notice.

However, failure by the Trust Board to take action to rectify the concerns set out above and to deliver sustained recovery and, in particular, to demonstrate that it is able to provide the leadership required to return the Trust to compliance with

all the terms of its Authorisation, would be likely to cause Monitor's Board to consider again the Trust's position and the potential further use of its formal powers of intervention. In addition, further developments in respect of the Trust, including but not restricted to the publication by the Care Quality Commission of any conditions on the Trust's Registration, might cause Monitor's Board to consider potential further use of its formal powers of intervention.

Next steps

Monitor's Compliance Director, Merav Dover, will be in touch with you as a matter of urgency to progress the actions specified in the enclosed Notice. Further, as the Trust is in significant breach of its terms of Authorisation, the Trust is required to report on progress and to meet Monitor on a monthly basis. Any questions should be directed to Merav.

Yours sincerely

A handwritten signature in black ink, appearing to read "Chris Mellor". The signature is written in a cursive style with a large initial "C" and a long horizontal stroke at the end.

Chris Mellor
Chair

Attachments: Notice of exercise of intervention powers

CC: Members' Council