

National Health Service Act 2006 (“the Act”)

NOTICE of exercise of intervention powers under section 52 of the Act

**To: The Board of Directors and the Council of Governors
Sherwood Forest Hospitals NHS Foundation Trust
King’s Mill Hospital
Mansfield Road
Sutton in Ashfield
Nottinghamshire
NG17 4JL**

1. On the basis of information made available to Monitor by Sherwood Forest Hospitals NHS Foundation Trust (“the Foundation Trust”) and having taken into account representations made to Monitor by the Foundation Trust, Monitor is satisfied:
 - (a) that the Foundation Trust has contravened, and is failing to comply with its terms of Authorisation, in particular:
 - (i) Condition 2, which requires the Foundation Trust to exercise its functions effectively, efficiently and economically; and
 - (ii) Condition 5, which requires the Foundation Trust to ensure the existence of appropriate arrangements to provide representative and comprehensive governance; and
 - (b) that the contraventions and failures are significant under section 52(1) of the Act.
2. This Notice constitutes formal notification of the immediate exercise by Monitor of its statutory powers under section 52(3) and (4) of the Act.
3. Without prejudice to any further action which Monitor may take under the Act, Monitor:
 - (a) appoints Christopher Mellor with effect from 8 October 2012 as Interim Chairman of the Foundation Trust for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct;and requires the Foundation Trust to:
 - (b) agree to Monitor’s advisory engagement in the Foundation Trust’s appointment process for a permanent CEO;
 - (c) commission a review of quality governance at the Foundation Trust;
 - (d) commission a review of Board governance at the Foundation Trust;
 - (e) commission a diagnostic review to assess the Foundation Trust’s current financial position;

- (f) commission a review to urgently assess the Foundation Trust's strategy for long term financial viability and the extent to which this strategy may need to be revised;
- (g) agree in relation to all of the reviews which the Foundation Trust is required to commission in paragraphs 3(c) to 3 (f) inclusive above that both the scope of the reviews and the external advisers to be engaged to undertake them will be agreed with Monitor;
- (h) report regularly on progress towards delivery of key milestones to be stipulated by Monitor, and to meet Monitor on a regular basis until Monitor is assured that the Foundation Trust has returned to full and sustainable compliance with its Authorisation.

Dated 5 October 2012

A handwritten signature in black ink, appearing to read "David Bennett", with a long horizontal flourish extending to the right.

**David Bennett
Chair**

Annex to NOTICE dated 5 October 2012 of exercise of intervention powers under section 52 of the Act to:

Sherwood Forest Hospitals NHS Foundation Trust

1. The aims of this formal intervention include ensuring that the Board of the Foundation Trust:
 - has the appropriate leadership, skills and capacity to enable the Foundation Trust to make immediate and sustainable improvements to address the identified breaches of its terms of Authorisation; and
 - receives appropriate advice from Monitor and external support for the purposes of the various reviews identified by Monitor as being required by the Foundation Trust.
2. Importantly, the scope of the quality governance review required under the Notice will include, amongst other matters, the breast cancer treatment issue (as referred to in the Matrix of evidence to the letter accompanying the Notice) and in particular, when and how this issue was identified by the Foundation Trust and whether, once identified, the Trust dealt with it sufficiently promptly.
3. Monitor expects Christopher Mellor as Interim Chairman of the Foundation Trust to ensure that the external expert review commissioned by the Trust into the breast cancer treatment issue is completed as soon as possible, and the findings reported to Monitor and to the Chief Medical Officer.
4. To the extent that the report once received of the external expert review commissioned by the Foundation Trust into the breast cancer treatment issue identifies outstanding matters and/or failings by the Foundation Trust, and/or makes recommendations for rectification measures at the Foundation Trust, Monitor will urgently consider the appropriateness of using its statutory intervention powers again at the Trust to ensure that the required remedial action is taken by the Trust to protect patients and ensure the safety and quality of services provided to them within an acceptably swift timescale. In any event, Monitor expects the Trust itself to take appropriate remedial action as may be urgently required.
5. In addition to all of the requirements of the Notice, following Monitor's identification of governance failings at the Foundation Trust, and Monitor's concerns over the breast cancer treatment issue, Monitor has agreed with the Care Quality Commission that the CQC, on terms which will be agreed with Monitor (who will continue to seek advice from the Chair of its Medical Advisory Group) will conduct an urgent quality assurance review at the Trust. The Foundation Trust will be required in the usual way to co-operate fully with the CQC.
6. Overall, intervention is a secure mechanism of ensuring that appropriate regulatory control is in place to help the Foundation Trust to strengthen its governance arrangements, to protect the services it provides to patients and to enable a return to full compliance by the Foundation Trust with its terms of Authorisation.
7. In accordance with the *Compliance Framework*, Monitor will keep the Foundation Trust's situation under review as matters unfold and the results of the various reviews required are known.