

Mr Graham Murrell
Chair
South Warwickshire NHS Foundation Trust
Warwick Hospital
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CV34 5BW

The logo for Monitor, featuring the word "Monitor" in a sans-serif font with a blue arc above the letter "o".

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7 June 2013

Dear Graham

South Warwickshire NHS Foundation Trust (the “Trust”)
Notification of decision to open a formal investigation

1. I am writing to inform you of Monitor’s decision to open a formal investigation and to invite you to a meeting at our offices to discuss the concerns leading to this decision. These concerns are in relation to the Trust’s persistent failure to meet its A&E target and concerns in relation to RTT admitted target performance.
2. The purpose of this letter is to:
 - 2.1 state the issues which have led to our concerns; and
 - 2.2 confirm the process Monitor will adopt in assessing the extent of these concerns, whether they may amount to a breach of the Trust’s licence, and any regulatory action which may be appropriate as a consequence.
3. **Monitor’s concerns**
 - 3.1 Monitor is concerned about the Trust’s performance against its targets, including:
 - 3.1.1 Persistent breach of the A&E target in Q1, Q3 and Q4 2011/12, and Q3 and Q4 2012/13; and
 - 3.1.2 The Trust’s inability to provide assurance that it will be able to meet the RTT admitted target in Q1 2013/14.
 - 3.2 Monitor is therefore concerned that the current and expected target breaches may be indicative of a breach of the Trust’s licence.
 - 3.3 Monitor would like to explore these issues at a meeting with you and other members of your Board, to assist it in its consideration of whether the matters outlined above indicate a breach of the Trust’s licence.

4. Monitor's process to determine whether the Trust is in breach of its licence

4.1 Monitor considers all relevant factors in assessing whether or not the Trust is in breach of its licence, in outline:

- Trust Board assurance that the Trust is able to continue to meet the conditions of its licence;
- Adherence to Monitor's published guidance relating to the requirements of the licence; and
- Monitor's Enforcement Guidance.

4.2 Monitor will consider whether the evidence supports a finding that the Trust is in breach of a condition or conditions of its licence. This evidence will include all relevant representations made by the Trust and relevant information from third parties such as CQC and commissioners.

5. Next Steps

5.1 The meeting will be held at Monitor's offices at 4 Matthew Parker Street on a date to be arranged, and will provide a full opportunity for the Trust Board to explain and provide evidence as to the nature and strength of its financial and clinical sustainability, including its consideration of the matters set out in Section 3 of this letter.

5.2 Depending on the agreed date of the meeting the Chair will either be Stephen Hay (Managing Director of Provider Regulation) or myself (Regional Director – Midlands & East) and attended by members of Monitor's relationship management team for the Trust, together with a representative from Monitor's legal team. We expect attendees from the Trust to include you, the Chief Executive, the Medical Director, the Chair of the Trust's Quality Committee or equivalent, and any other members of the Trust Board you deem appropriate.

5.3 In order that we may consider fully and carefully any information the Trust may wish to make available to us ahead of our meeting, you are asked to provide us with the information set out in Appendix A, to reach us by 5pm on 21 June 2013.

5.4 Following our meeting, we will write to you to confirm next steps and associated timings.

If you have any queries relating to the matters set out in this letter, please contact your relationship managers, Laura Mills and Alex Coull on 020 7340 2473 or by email laura.mills@monitor.gov.uk / alexandra.coull@monitor.gov.uk.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Adam Cayley', written in a cursive style.

Adam Cayley
Regional Director – Midlands & East

cc.: Glen Burley, Chief Executive

Appendix A

Information requested from the Trust regarding performance

1. Board minutes (both public and private sessions) from January 2012 to present;
2. Minutes from the Quality Committee (or equivalent) from January 2012 to present;
3. Any reports relating to the Trust's A&E and RTT performance commissioned by the Trust from external parties since January 2012;
4. Summary of actions being taken to address the target breaches and the cost of implementing these actions;
5. Trust's expected trajectory for achieving compliance with targets; and
6. Any other information considered relevant by the Trust Board.