

**To:** The Board

**For meeting on:** 26 March 2014

**Agenda item:** 6

**Report by:** Executive Team

**Report for:** Information

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**TITLE:** Executive Report

**Summary:**

This report summarises key developments at Monitor since the Board meeting held on 26 February 2014.

**Recommendation:**

The Board is asked to note the report.

**Public Sector Equality Duty:**

*Monitor has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. In relation to the issues set out in this paper, consideration has been given to the impact that the recommendations might have on these requirements and on the nine protected groups identified by the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, gender and sexual orientation).*

*As this report is for information, it is anticipated that the recommendations of this paper are not likely to have any particular impact upon the requirements of or the protected groups identified by the Equality Act.*

**Exempt information:**

*None of this report is exempt under the Freedom of Information Act 2000.*

## REPORT FROM THE EXECUTIVE COMMITTEE (ExCo)

### Wednesday 5 March 2014:

1. At its meeting on 5 March 2014 the ExCo conducted the following business:

#### January 2014 enquiries and complaints reports, and proposed access and escalation process

2. Reviewing information about the enquiries and complaints received by Monitor in January 2014. A report is due to be brought to the Board in April on enquiries and complaints received by Monitor and the processes in place to manage these.
3. The Parliamentary and Health Service Ombudsman has decided not to uphold the complaint about Monitor relating to how it handled concerns from a whistleblower regarding Berkshire NHS Foundation Trust.

#### Enforcement of Integrated Care Condition 1: Provision of integrated care

4. Agreeing where in the organisation responsibility for delivering Monitor's integrated care duties should sit and the approach to be taken when investigating potential breaches of the licence condition relating to integrated care. The Co-operation and Competition directorate will lead on enforcement cases relating to this licence condition and decisions on such cases will be taken by the Co-operation and Competition Executive, or depending on whether the case is high-risk or policy determining, the Board. Integrated care policy decisions will be taken by the ExCo and, where appropriate, the Board.

#### 2014/15 research on stakeholders' views of Monitor

5. Determining the purpose and timing of research around stakeholders' views of Monitor and the stakeholder groups to be covered by it. Qualitative research will be undertaken in September 2014 together with a wider survey, in order to inform Monitor's business planning for 2015/16.

#### Monitor Values

6. Considering the proposed revisions to Monitor's values, the review process and rationale for the proposed changes. These have been incorporated in the draft Corporate Strategy for approval at this meeting. Further information is available under agenda item 14 (ref: BM/14/33(P))

#### Director and Manager Development in Monitor

7. Considering a proposed development framework for Monitor's Directors and Managers, with the aim designing and implementing a fit for purpose programme in 2014/15.

#### Management Accounts for the 10 months ended 31 January 2014

8. Reviewing information about Monitor's year to date expenditure position and latest projection as at 31 January 2014.

## **Tuesday 18 March 2014:**

9. At its meeting on 18 February 2014 the ExCo conducted the following business:

### Project updates: Economics and Strategy and Policy teams

10. Reviewing the work being undertaken by the Economics and Strategy and Policy teams (see below).

### Forthcoming Board Committee meetings – draft agendas

11. Reviewing the agendas for the forthcoming meetings of the Remuneration Committee and the Nomination Committee. These meetings will be taking place on Wednesday 25 March 2014 and Wednesday 2 April 2014 respectively.

### Employee Survey Update

12. Considering the preliminary results of the 2014 Employee Opinion Survey. Information about the results of this survey and the action planned by ExCo in response will be brought to the Board in April.

### Stakeholder feedback on volume and style of Monitor publications

13. Discussing the number of publications published by Monitor in the last year and how well they have been received in order to determine the organisation's future approach to published communications.

### Developing Monitor's engagement with patient groups

14. Reviewing the work currently being undertaken by Monitor in relation to how it engages with patients and the public in order to get their input to its decision-making. Further information about this can be found under agenda item 8 (ref: BM/14/30).

### Budget 2014/15

15. Considering the budget allocation for 2014/15 proposals ahead of their submission to the Board. Further information about this can be found under agenda item 17 (ref: BM/14/34(P)).

### Business Plan 2014/15

16. Discussing the approach to be taken with regard to the organisation's business plan for 2014/15 and the timetable for its production.

## **Licensing Independent Providers**

17. On 1 April 2014 Monitor will license the first group of independent providers. Applications are still being considered, but it is expected that the number of providers who are licensed will be broadly in line with the Department of Health's estimate of the number of likely licensees. Follow-up activity in April and May is planned to reach providers who may not have applied yet. The number of CRS providers is likely to be below the numbers anticipated, but there has only been limited engagement by CCGs to date and it is

expected that this number will rise during 2014/15. Monitor has recruited a team to regulate independent providers and the core team will be in place from 1 April 2014. The consultation on the Risk Assessment Framework has been completed for independent providers and will be published before 1 April 2014. An initial review of the independent provider licensees will be brought to the Board in May 2014.

## **ECONOMICS UPDATE**

### **Progress on current projects**

18. The “**NHS foundation trust (NHS FT) sustainability**” project is close to finalising its first pilot study. The team is testing clinical and financial sustainability at a high level using a methodology developed together with the Assessment team, and with input from clinical experts in the Co-operation and Competition directorate. The results of this first project are expected at the beginning of April.
19. The “**Local Health Economy (LHE) diagnostic**” project is working on developing a methodology and model for analysing LHE performance, and drivers of that performance. This month, the focus has been on developing an analytical framework for identifying the demand and supply side drivers of local health economy performance. The project has incurred a two week delay as a result of difficulties obtaining some of the required data, Our first pilot study will be kicked off by the end of March, with results expected by the end of April. It is suggested that the second LHE diagnostic pilot could be on an applicant trust chosen by the Assessment team.
20. The “**smaller acutes**” project is finalising the analysis of the information Monitor has gathered, following a workshop with some members of ExCo on 25 February 2014. Draft findings are to be delivered in April. The team is continuing to explore whether or not economies of scale may characterise some services more than others and the reasons for current differences between theoretical relationships and empirical results. Work is also being undertaken to bring together analysis to try to understand the interrelationships between different factors in driving performance. Monitor will continue to explore and test these results with key stakeholders and have contracted with the King’s Fund and Imperial to assist with the quality assurance of our analysis. An invitation to tender (ITT) to contract for a project to examine the evidence around the provision of core acute services in international settings has also been issued.

### **Patient engagement**

21. The “**patient engagement**” project developed a short-list of “common practice” ways in which NHS bodies and sector regulators engage with patients (or consumers) and their representatives. These were tested with two roundtable events with patients and patient representative groups in February. The engagement events were well received though they have, inevitably, raised expectations regarding Monitor’s future work on engagement. The report on this work is being finalised but the key findings are captured in the paper jointly drafted with Stakeholder Engagement (see item 8 on agenda for this meeting (ref: BM/14/30)).

## **Learning from other regulators**

22. The team has begun a project on the lessons that can be learnt from other regulators and how this could help Monitor judge its performance as a regulator (e.g. in the form of a framework). The desk based work has progressed well. It is anticipated that results of this work will be available in early May before a deep-dive is launched into those areas of regulation that might provide the most valuable lessons for Monitor.

## **Efficiency and Tariff “Leakage”**

23. The team is working in tandem with the Pricing team on future efficiency assumptions (led by the Pricing team) and tariff ‘leakage’ (led by the Economics team). On the latter, the team has been engaging extensively with stakeholders on discussions and developed a pack outlining the framework for the analysis and draft project plan. This is being shared with internal stakeholders, including the Pricing team, the Assessment directorate and the Enforcement team, over the coming weeks. This will be a key project for 2014/15.

## **Wider work**

24. The Economics team is engaging with partners on a set of work in preparation for the next Spending Review and the financial challenges in 2015/16. On the Spending Review, the Economics team plays the key role for Monitor in developing a more transparent model of costs in the health system. For 2015/16, the Economics team is working with NHS England on a preliminary assessment of potential actions for 2015/16 to feed into the joint Monitor / NHS England group discussion in April.
25. Following a request from the Provider Regulation directorate, the Economics team is also engaging with some work on transactions lessons being led by NHS England’s London team. This work may feed into wider work on reconfiguration lessons included within the business plan for 2014/15.

## **STRATEGY AND POLICY UPDATE**

### **External partners**

26. Monitor is working to establish a common governance framework with the Care Quality Commission (CQC) which will underpin both its own work on governance at NHS FTs and applicants and the CQC’s ‘Well led’ inspection agenda. This is currently awaiting CQC’s publication of its inspections handbook to progress, which is due in April.
27. Work is ongoing both internally and with external partners to support Monitor’s duty to enable integrated care, including the integrated care pioneers, and Monitor plans to issue guidance for the integrated care licence condition in the summer.
28. Monitor is a stakeholder member of the National Institute for Health and Care Excellence’s (NICE’s) team examining an evidence based approach to staffing levels, following on from the National Quality Board (NQB) safer staffing guidance document.

29. Monitor is working with the NHS England and the NHS Trust Development Authority (NHS TDA) to examine the potential of piloting the six care models discussed in Everyone Counts: Planning for Patients 2014/15 to 2018/19.

### **Developing regulatory frameworks**

30. As independent sector providers of Commissioner Requested Services (CRS) will be licensed from April, Monitor is working to identify what options are available to it, in the absence of Health Special Administration, to protect key patient services should one go fail financially.

### **Overseeing impact of Monitor's regulatory approach**

31. Policy's Risk and Performance teams are now in place at Monitor and are monitoring performance across the organisation.
32. Monitor is working to develop enhanced risk management and performance oversight frameworks, with implementation planned in spring (performance) & summer (risk).

### **Supporting provider development**

33. Monitor's Development Director is now in place and the organisation has a full agenda of development activities for Chairs, Chief Executives, Non-Executive Directors (NEDs) and Medical Directors planned for the coming months.

## **STRATEGIC COMMUNICATIONS UPDATE**

### **Report on the performance of the NHS FT sector in Q3**

34. Monitor's Q3 2013/14 report on NHS FT performance generated a large amount of print and broadcast coverage: Jason Dorsett appeared on Radio 4's Today programme, BBC News, Sky News and LBC Radio. The report was of particular interest to the media as the details about NHS FT deficits fitted well with the established narrative of financial pressures facing the NHS. Most journalists reported that more NHS FTs were struggling financially and that many were having problems meeting cancer targets.
35. An infographic on Monitor's website summarised the sector's performance and a podcast complemented the report. The report was viewed on the website nearly 2,500 times.

### **Regulatory action**

36. The Manchester Evening News and trade press covered Monitor's investigation into The Christie NHS Foundation Trust in Manchester.
37. There was a large amount of local and regional coverage on the closure of Monitor's investigations into both Royal Berkshire NHS Foundation Trust and Wirral University Teaching Hospital NHS Foundation Trust.

## **Choice and competition**

38. The Health Service Journal (HSJ) covered the closure of Monitor's investigations into NHS England's commissioning of cancer services in Greater Manchester and Thornbury Radiosurgery Centre as well as Monitor's announcement that the proposed merger of pathology services in Surrey and Sussex would not have a negative impact on patients.
39. Monitor has launched a series of ten regional workshops for commissioners on choice and competition. Aimed at Clinical Commissioning Groups (CCGs), Commissioning Support Units (CSUs) and NHS England area and regional teams the workshops include presentations from Monitor and NHS England, as well as the opportunity to hear case studies. There has been positive feedback from the two events so far, with most of those attending saying their understanding of choice and competition in healthcare has moved from "fairly low" to "fairly or very high". Attendees welcomed the opportunity to ask questions and talk through scenarios in an informal setting and requested more of these workshops.

## **Call to action: transformative ideas for the future NHS**

40. David Bennett, Monitor's Chief Executive, wrote an article for the HSJ after the recent NHS Futures Summit. Under the headline 'Adapt or face the consequences', he explained the need for innovation to meet "the unprecedented scale of challenges the health service faces over the next ten years".
41. Monitor published the report 'Call to action: transformative ideas for the future NHS' with a set of videos that were produced by its digital team. Filmed at the NHS Futures Summit, they include David Bennett explaining what Monitor is doing to enable innovation in the NHS over the next 10 years and presenters from the Summit discussing their vision for the NHS.

## **Commissioner round table**

42. David Bennett hosted a round table to inform how Monitor interacts with commissioners and ensure that they understand our role. CCG leaders and representatives from NHS England, a CSU and a county council attended.
43. Attendees' feedback included:
  - i) there is a general lack of awareness and misunderstanding about Monitor's role and responsibilities, particularly the organisation's approach to procurement and reviewing large transactions
  - ii) locally, commissioners sometimes experience a degree of disconnect between Monitor and others such as the NHS Trust Development Authority
  - iii) there was a plea for reports, guidance and other communications to be made accessible by producing summaries and by using existing, tested channels such as NHS England's CCG bulletin

- iv) there is a need for Monitor staff to be more accessible within local areas
- v) many spoke highly of Monitor's 'credible', 'professional', 'balanced' and 'articulate' staff but said they could seem 'process focused' and 'transactional' which felt distant to the world in which commissioners operated where the language used is about patients, clinical insights and outcomes
- vi) there is an appetite for a partnership of equals and a national stakeholder platform where issues could be discussed.

44. These points are being taken forward in Monitor's communications approach and in wider consideration of how to resource local engagement

### **Engaging MPs**

45. Monitor held a series of events at the House of Commons to brief MPs on NHS FTs' performance in their local area. Attendance was disappointing and the Strategic Communications directorate is currently rethinking the ways in which Monitor engages with groups of MPs.
46. As a result of Monitor's engagement with him, Rob Wilson MP responded to its Royal Berkshire announcement by saying: "I have had detailed discussions with Monitor over the past six weeks in person and on the telephone and I am reassured that today's decision is absolutely the right one...I am pleased that Monitor has been a catalyst to making sure that the right decisions are made so that substantial progress is made and quickly." Andrew Percy MP also commented publicly on his positive experience of engaging with Monitor.

### **Monitor 'lunch and learn' session for Department of Health**

47. The stakeholder team held a 'lunch and learn' session for the Department of Health focusing on Monitor's duty to ensure providers are well led. More than 60 colleagues from the department attended.

### **Monitor's presence at the Health and Care Innovation Expo**

48. Monitor had an exhibition stand at the NHS England-sponsored Health and Care Innovation Expo in Manchester. David Furness spoke on choice and competition and Nick Ville on future models of care. Visitors to the stand ranged from CSUs keen for Monitor to use them to disseminate information and arrange briefings for their national governance and risk network, to NHS foundation trust governors highlighting general issues in holding boards to account.

### **Executive Committee**