

To: The Board

For meeting on: 26 November 2014

Agenda item: 5

Report by: David Barron, Senior Policy Advisor on behalf of Toby Lambert,
Director of Strategy and Policy

Report on: A review of the Monitor licence for NHS foundation trusts

Summary

1. Between June and September 2014, the Strategy and Policy team conducted a short review of the Monitor licence. The aim of the review was to identify any areas of the licence which were inadvertently affecting beneficial change for patients and/or having a distorting effect on NHS Foundation Trust (NHSFT) behaviour. The team was also keen to gather any insights on positive changes for patients as a consequence of the Monitor licence.
2. The review focused on the NHSFT sector and covered the period from when the licence was launched in April 2013 to September 2014. The team's decision to review the licence so early follows an agreement made last year with the Foundation Trust Network (FTN) that Monitor would undertake a short review of the licence in 2014.
3. Company Secretaries of NHSFTs were targeted to gather insights for the review. They were invited to complete a short online survey and to take part in a series of workshops to discuss the licence in detail.
4. However, despite communicating the licence review through many different channels on multiple occasions, there was a very low response rate, with only 17 survey responses (FTN had a similar response rate of just 21 to their licence review in March 2014) and just four NHSFTs expressing an interest to attend a licence review workshop.
5. The main themes from the responses to the review were as follows:
 - i) Overall NHSFTs had no major issues with the introduction of the Monitor licence and did not highlight any areas where the licence conditions were inadvertently affecting beneficial changes for patients. A number of

respondents requested an 'education programme' and some real life case studies to bring the licence conditions to life.

- ii) NHSFTs had generally been able to complete the process within existing resources and with very little change.
- iii) NHSFTs raised concerns regarding the potential overlap and duplication of the Monitor licence with other regulatory processes. A number of respondents requested information on how the monitoring of the licence aligns to the role and work of the Care Quality Commission (CQC) (the Monitor Strategic Communications directorate is currently leading a piece of work to articulate the respective roles of Monitor and CQC).
- iv) Despite the 2016 deadline, a consistent theme from the licence review was that little progress had been made in identifying and confirming Commissioner Requested Services (CRS).
- v) The main challenges identified to reviewing CRS concerned the lack of commissioner awareness of the issues and potential benefits of CRS. Many of the NHSFT respondents suggested that CRS did not appear to be a high priority for commissioners.

Proposed Next Steps

- 6. In response to the findings of the licence review it is the team's intention to begin a series of engagement and education events with commissioners and providers on the issues of the licence and specifically CRS.
- 7. The details of the events are still to be confirmed but the team is exploring whether to extend the licence and CRS events to also include other areas such as competition regulations and pricing queries. It is planning to run the events from early 2015.

Recommendations

- 8. The Board is asked to note the findings of the licence review and support the roll out of the proposed education and engagement programme with a specific focus on CRS.

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Director of Strategy and Policy

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).

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.