

Trust Board Bulletin 25 April 2013 – Paper 1

NAME	POSITION	INTEREST(S) DECLARED
Mr M Hindle	Trust Chairman	Non-Executive Director, Health Protection Agency (HPA); Non-Executive Director, Medicines and Health Products Regulatory Agency (MHRA); Council Member of the University of Leicester, and Member of the Advisory Board of the University of Bradford Business School.
Mrs K Jenkins	Non-Executive Director	Return awaited
Mr R Kilner	Non-Executive Director	Director of Deltex Consulting Ltd; Member of the Countesthorpe Health Centre Patient Participation Group, and Non-Executive Chair for Swanbridge Hire and Sales Ltd.
Mr P Panchal	Non-Executive Director	Return awaited
Mr I Reid	Non-Executive Director	Poppy Day Collector for the Royal British Legion, and Trustee of Bitteswell United Charities.
Ms J Wilson	Non-Executive Director	Board Chair, Leicestershire and Rutland Probation Trust.
Professor D Wynford-Thomas	Non-Executive Director	Dean of the University of Leicester Medical School and Pro-Vice Chancellor, Head of College for Medicine, Biosciences and Psychology, University of Leicester.
Mr J Adler	Chief Executive	None to declare
Ms K Bradley	Director of Human Resources	None to declare
Dr K Harris	Medical Director	Member (MD) of the nice Interventional Procedures Advisory Panel
Mrs S Hinchliffe	Chief Operating Officer/Chief Nurse	None to declare
Mr J Tozer	Interim Director of Operations	Return awaited
Mr A Seddon	Director of Finance and Business Services	Return awaited
Mr S Ward	Director of Corporate and Legal Affairs	None to declare
Mr M Wightman	Director of Communications and External Relations	Return awaited

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT TO: TRUST BOARD
DATE: 25 APRIL 2013
REPORT BY: DIRECTOR OF CORPORATE AND LEGAL AFFAIRS
SUBJECT: SEALING OF DOCUMENTS

1. The Trust's Standing Orders (Standing Order 12) set out the approved arrangements for custody of the Trust's seal and the sealing of documents.
2. Appended to this report is a table setting out details of the Trust sealings for the 2012-13 financial year to date (by quarter).
3. The Trust Board is invited to receive and note this information.
4. Reports on Trust sealings will continue to be submitted to the Trust Board on a quarterly basis.

Stephen Ward
Director of Corporate and Legal Affairs

List of Trust Sealings for Quarter 4, 2012/13

Date of Sealing	Nature of Document	Date of Authority and Minute Reference	Sealed by	Remarks
26/2/13	Agreement between UHL and Matrix Solutions UK Limited relating to concrete repairs and refurbishment works to the multi-storey car part at the Leicester Royal Infirmary.	Trust Board – 20/12/12 333/12/5	Chairman/ Assistant Director – Head of Legal Services	Chairman authorised S Murray to initial incorporated documents. Originals handed to A.Powell, Deputy Director of Facilities. 26.02.13
26/2/13	Agreement between UHL and Brown and Shaw (Builders) relating to alterations and refurbishment works to Outpatients 5 to create a Fracture Clinic	Trust Board - 26/4/12 128/12/1	Chairman/ Assistant Director – Head of Legal Services	Chairman authorised S Murray to initial incorporated documents. Originals handed to A.Powell, Deputy Director of Facilities. 26.02.13
27/2/13	Agreement between UHL and T Denman and Sons Ltd, relating to alterations and refurbishments of Theatres 1-6 Recovery Area at Leicester General Hospital.	Trust Board – 26/4/12 128/12/1	Chairman/ Director of Corporate and Legal Affairs	Chairman authorised S Ward to initial incorporated documents. Originals to be handed to M Starling, Assistant Director of Facilities. 27.02.13
27/2/13	Agreement between UHL and T Denman and Sons Ltd, (Melton Mowbray) relating to alterations to Wards 7-8 at Leicester General Hospital	Trust Board – 26/4/12 128/12/1	Chairman/ Director of Corporate and Legal Affairs	Chairman authorised S Ward to initial incorporated documents. Originals to be handed to M Starling, Assistant Director of Facilities. 27.02.13
27/2/13	Agreement between UHL and T Denman and Sons Ltd, (Melton Mowbray) relating to alterations to Ward 3 at Leicester General Hospital.	Trust Board – 26/4/12 128/12/1	Chairman/ Director of Corporate and Legal Affairs	Chairman authorised S Ward to initial incorporated documents. Originals to be handed to M Starling, Assistant Director of Facilities. 27.02.13
27/2/13	Deed of Association/Accession to Health Enterprise East (Co No 5285665)	Trust Board – 20/12/12 337/12/2	Chairman/ Director of Corporate and Legal Affairs	Chairman authorised. Witnessed via S Ward to initial incorporated documents. Originals x2 handed to David Hetmanski, R&D Associate Director. 27.02.13
27/2/13	Deed of Novation transferring benefits and obligations of the East Midlands and South Yorkshire PC LRN from Leicester City PCT to UHL.	Trust Board – 20/12/12 337/12/1	Chairman/ Director of Corporate and Legal Affairs	Chairman authorised. Witnessed via S Ward to initial incorporated documents. Originals x2 handed to David Hetmanski, R&D Associate Director. 27.02.13

Trust Board Bulletin 25 April 2013 – Paper 3

To:	Trust Board						
From:	John Adler, Chief Executive						
Date:	25 April 2013						
CQC regulation:	All applicable						
Title:	Monitor and NHS Trust Development Authority Guidance						
Author/Responsible Director: Helen Harrison, FT Programme Manager / John Adler, Chief Executive							
Purpose of the Report: To update the Trust Board on key points of interest from recent Monitor and NHS Trust Development Authority publications							
The Report is provided to the Board for:							
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| **Summary / Key Points:** | | | |
| At the end of March 2013 Monitor published its Compliance Framework for 2013/14 followed by an updated version of Applying for NHS Foundation Trust Status: Guide for Applicants at the beginning of April 2013. The NHS Trust Development Authority (TDA) have also just published their new accountability framework for NHS trusts, called Delivering High Quality Care for Patients: The Accountability Framework for NHS Trust Boards. This paper summarises the key points of interest from these documents: - The most recent publication of Monitor's Guide for Applicants reflects changes resulting from the Health and Social Care Act (2012) - A further update to the guide (later on in 2013) is expected to reflect any changes resulting from the Mid Staffordshire Public Inquiry and Monitor's consultation on the Risk Assessment Framework - Monitor's new powers cover a wider range of providers of NHS services and consequently the Compliance Framework is being replaced with a new regulatory tool, the Risk Assessment Framework - Monitor intends to run elements of the new Risk Assessment Framework in 'shadow' form for NHS foundation trusts for the first six months of 2013/14, (in parallel with the Compliance Framework). For other eligible NHS providers (providers of Commissioner Requested Services), the Risk Assessment Framework will apply from April 2014 - The new Risk Assessment Framework sets out Monitor's approach to assessing the risk of providers of Commissioner Requested Services no longer being a going concern (and consequently continuity of services) and to investigate the governance of NHS foundation trusts where issues may arise - The NTDA have brought together a single set of systems, policies and processes governing all aspects of its interactions with NHS trusts in the form of the 'Accountability Framework for NHS Trust Boards' - The structure of the oversight model reflects Monitor's proposed new Risk Assessment Framework and as part of this oversight the NTDA will calculate shadow Monitor risk ratings for NHS Trusts - Future trust oversight self assessments will reflect the new NHS Trust Development | | | |

Authority Accountability Framework

Recommendations:

The Trust Board is asked to:

- Note that Monitor's Guide for Applicants has been updated to reflect Monitor's consultation on changes to the guide and the proposed Risk Assessment Framework and changes resulting from the Health and Social Care Act (2012)
- Note the publication of the 2013/14 Compliance Framework
- Note the publication of the NTDA Accountability Framework for NHS Trust Boards and the implications for future interaction with the NTDA in relation to the Annual Plan and FT application
- Note that the Compliance Framework will be replaced by the proposed Risk Assessment Framework later on in 2013
- Note that this update on the recently published Monitor and NTDA guidance has been received by the FT Programme Board

Previously considered at another corporate UHL Committee? Update received by the FT Programme Board

Strategic Risk Register: No

Performance KPIs year to date: N/A

Resource Implications (eg Financial, HR): No

Assurance Implications: Yes

Patient and Public Involvement (PPI) Implications: No

Stakeholder Engagement Implications: No

Equality Impact: None

Information exempt from Disclosure: None

Requirement for further review? Future trust oversight self assessments will reflect the new NHS Trust Development Authority Accountability Framework

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT TO: Trust Board
DATE: 25th April 2013
REPORT FROM: John Adler, Chief Executive
SUBJECT: Monitor and NHS Trust Development Authority Guidance

1) Background

On 28th March 2013 Monitor published its Compliance Framework for 2013/14 followed on 12th April 2013, by an updated version of Applying for NHS Foundation Trust Status: Guide for Applicants.

In addition the NHS Trust Development Authority (TDA) has just published its new accountability framework for NHS trusts, called Delivering High Quality Care for Patients: The Accountability Framework for NHS Trust Boards.

This paper summarises the key points of interest from these documents.

2) Applying for NHS Foundation Trust Status: Guide for Applicants (April 2013)

Monitor's Guide for Applicants was first published in December 2008 with amendments in July 2010. A more recent update was published in January 2013 which was superseded by a further update on 5th April 2013. However, the version of the guide published on 5th April 2013 contained an error regarding the statutory consultation process for Foundation Trust applications. The guide was therefore corrected and re-published on 12th April 2013.

The guide covers all stages of the foundation trust application process, including Monitor's assessment process and the application outcome.

The most recent updates take account of Monitor's consultation on changes to the guide as well as the proposed Risk Assessment Framework (which replaces the Compliance Framework later on in the year) and reflects changes resulting from the Health and Social Care Act (2012).

A copy of the most up to date guide can be found on Monitor's website. Key changes are summarised on page 1 of the guide itself.

A further update to the guide (later on in 2013) is expected to reflect any changes resulting from the Mid Staffordshire Public Inquiry and Monitor's consultation on the Risk Assessment Framework.

3) Compliance Framework 2013/14

The Compliance Framework sets out the approach that Monitor takes to assess the compliance of **foundation trusts** with their terms of Authorisation, with a particular focus on financial and governance risk. A copy of the 2013/14 Compliance Framework can be found on Monitor's website.

Monitor's new powers cover a wider range of providers of NHS services and consequently the Compliance Framework is being replaced with a new regulatory tool, the Risk

Assessment Framework. Monitor intends to run elements of the new Risk Assessment Framework in 'shadow' form for **NHS foundation trusts** for the first six months of 2013/14, (in parallel with the Compliance Framework). For other eligible NHS providers (**providers of Commissioner Requested Services**), the Risk Assessment Framework will apply from April 2014.

4) The new NHS Provider Licence

The Health and Social Care Act 2012 (the Act) requires everyone who provides an NHS health care service to hold a licence (unless they are exempt under regulations made by the Department of Health). The Act also gives Monitor new duties and powers. Monitor's role of overseeing the governance of NHS foundation trusts will continue alongside new functions, including:

- setting prices for NHS-funded care in partnership with the NHS Commissioning Board
- enabling integrated care
- preventing anti-competitive behaviour which is against the interests of patients and
- supporting commissioners in maintaining service continuity

Whilst NHS foundation trusts will not need to apply for a licence, other providers will need to apply and meet two licensing criteria:

- the requirements to hold a CQC registration and
- confirm that relevant people are fit and proper

5) The proposed new Risk Assessment Framework

The new Risk Assessment Framework sets out Monitor's approach to assessing the risk of **providers of Commissioner Requested Services** no longer being a going concern (and consequently continuity of services) and to investigate the governance of **NHS foundation trusts** where issues may arise.

Consultation on the proposed Risk Assessment Framework closed on 4th April 2013. A copy of the consultation document can be found on Monitor's website.

The key differences between the Compliance Framework and the new proposed Risk Assessment Framework are summarised in Appendix A of the consultation document.

5.1) Assessing risk to the continuity of services:-

Any **provider of Commissioner Requested Services** (services defined in the provider licence as services that commissioners believe would need to continue to be provided in the event of a provider failure), will fall under the regulatory scrutiny of Monitor and be awarded a "continuity of service risk rating." This will be based on two financial metrics: liquidity and capital servicing capacity.

Monitoring will be on a quarterly basis (rating 4) but emerging or residual financial concerns will lead to monthly reporting of the risk rating (rating 3). If there are escalating concerns (rating 2), Monitor can decide an investigation is required into whether the provider is in breach of its continuity of services licence condition. If Monitor considers that the provider is displaying financial concern, it can take a more active role in ensuring continuity of services,

possibly using its enforcement powers. In extreme cases, where Monitor decides there is financial distress, it might initiate contingency planning and ultimately, special administration.

5.2) Assessing the governance of FTs:-

The second element of the Risk Assessment Framework relates to assessing the Governance of FTs and does not affect commercial or third party providers of NHS services. In assessing the governance of an FT, Monitor will draw on 4 main sources of information:

- The Corporate Governance Statement from each FT, confirming compliance with the governance licence condition at the date of the Statement and anticipated compliance with the governance condition for the next financial year, specifying any risks to compliance and any action proposed to manage such risks
- A governance rating calculated by Monitor on a range of governance indicators. The factors which Monitor will consider in judging this rating are:
 - Care Quality Commission judgements on the quality of care provided; under the proposed levels of governance concern, a CQC warning notice would be deemed a “material governance issue – potential use of formal powers – Amber Red” which is only one down from “Red – Formal action to address governance issues taken.” It will be important for FTs to decide whether a warning notice can be challenged given that it may materially affect the trust’s governance rating if it remains in place
 - performance against selected national access standards in the NHS constitution and NHS mandate
 - performance against selected elements of the NHS Outcomes Framework published by the Department of Health in November 2012
 - relevant information from third parties
 - staff and patient information pertinent to the quality of care provided by the NHS foundation trust and
 - risk to the continuity of services
- The FT’s forward plans which may trigger governance issues
- Periodic external governance reviews. The proposal is that these would be every three years and carried out by a third party on an approved panel maintained by Monitor. It is proposed that these reviews would look at such matters as board capability, board effectiveness, the effectiveness of risk assurance processes and quality governance, assessed against Monitor’s Quality Governance Framework

6) Delivering High Quality Care for Patients: The Accountability Framework for NHS Trust Boards

At the beginning of April 2013, the NTDA published a single set of systems, policies and processes governing all aspects of its interactions with NHS trusts. These come together to form the ‘Accountability Framework for NHS Trust Boards’ which consists of:

- the **planning** framework for NHS Trusts

- the TDA's approach to day-to-day **oversight** of NHS Trusts
- the approach to support and **development** for NHS Trusts
- the TDA's policy on **escalation** of issues and
- a range of policies on providing **approvals** for proposals by NHS trusts, including approval of FT applications

A copy of the accountability framework can be found on the NTDA website.

6.1) The oversight model:-

The structure of the oversight model reflects Monitor's proposed new Risk Assessment Framework and as part of this oversight the NTDA will calculate shadow Monitor risk ratings for NHS Trusts.

Oversight begins with the TDA's planning guidance. All Trusts are expected to submit a final operating plan at the beginning of the financial year. The TDA will assess the level of risk to delivery based on its review of this plan.

The TDA will assess delivery across three domains:

- Domain 1 – quality & governance
- Domain 2 – finance
- Domain 3 – delivering sustainability

A set of indicators has been identified for each domain and delivery against each indicator will be assessed against thresholds and aggregated at domain level. There are also a number of requirements that the NHS TDA will require NHS Trust Boards to self-certify against, these are focussed mainly around Monitor's licence conditions.

Risks to **delivery of quality** will be assessed on the most recently published performance against indicators for 2013/14, responses to the quality checklist in Trusts' operating plans and a qualitative assessment of risk based on handovers from SHAs, including information drawn from partners such as the CQC.

The risk to **financial delivery** will be assessed using indicators including:

- bottom line income and expenditure position
- actual efficiency compared to plan split recurring / non-recurring
- forecast underlying revenue position compared to plan for the year

6.2) The development and support model:-

Trusts were asked to set out their development needs as part of their Annual Plan submission. Development plans are to be agreed with trusts by June 2013. Development needs will be met through a number of mechanisms either led or enabled by the TDA. By far the most commonly identified development need within trusts Annual Plans was benchmarking/ performance indicators/ sharing best practice whilst service line management and middle management development were two of the least commonly identified development needs.

7) Recommendations

The Trust Board is asked to:

- Note that Monitor's Guide for Applicants has been updated to reflect Monitor's consultation on changes to the guide and the proposed Risk Assessment Framework and changes resulting from the Health and Social Care Act (2012)
- Note the publication of the 2013/14 Compliance Framework
- Note the publication of the NTDA Accountability Framework for NHS Trust Boards and the implications for future interaction with the NTDA in relation to the Annual Plan and FT application
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