

10 December 2014

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**By email**

Dear Malcolm

Thank you for your recent letter, which David has asked me to respond to on Monitor's behalf. The points you raised required some careful consideration, partly explaining the delay to our response, for which I apologise. In preparing this reply, I have consulted Monitor's recently appointed Medical Director, Professor Hugo Mascie-Taylor, who is responsible for patient engagement in Monitor's processes.

Monitor agrees with your central premise that local communities have a crucial role in influencing and determining the configuration of health services provided in their areas. Monitor is supporting the involvement of local communities in two ways:

**1. Provider regulation**

In exercising our regulatory powers, we set and enforce a framework of rules implemented in part through licences we issue to NHS-funded providers. A central theme of our [Quality Governance Framework](#), which tests the effectiveness of quality governance at current and aspirant NHS foundation trusts, is whether the Boards of NHS organisations actively engage patients, staff and other key stakeholders on quality. It is a licence condition that Foundation Trusts actively engage with patients on the quality of care and take into account their views. Monitor's assessment process includes reviews of patient surveys and the NHS staff survey, meetings with staff and patient groups, and a review of access and outcome metrics.

When reviewing NHS foundation trust governance through our [Risk Assessment Framework](#) we will specifically consider how individuals (both staff and patients) perceive their hospital, tracking trends in a specific number of staff and patient metrics. If we identify any causes for concern, we will act proportionately and transparently, sharing our findings with trusts. Monitor will imminently begin a consultation as we consider updating this framework, which your organisation may wish to respond to.

The appointment of a Trust Special Administrator is one way in which Monitor can take decisive action to deal with NHS foundation trusts that are either unsustainable in their current configuration or at serious risk of failing to deliver sustainable services. A Trust Special Administrator will normally only be appointed in cases where other potential solutions have been tried and have not delivered the change required. Our [statutory guidance](#) specifies that the trust special administration process should be undertaken in partnership with and mindful of the views of the local community. Engagement with the local population should start as soon as the Trust Special Administrator takes up their post and continue throughout the process of reorganising services, which must include a statutory public consultation.

By way of an example, as part of the Mid Staffordshire FT public consultation approximately 50,000 consultation documents and response forms were distributed to over 700 organisations within Staffordshire including GP practices, libraries, charities and schools. Over 110 meetings with the public, staff and stakeholder groups were arranged throughout the period and the TSAs received over 2,800 consultation response forms, emails and letters, which were all considered in drafting the final recommendations to Monitor.

## 2. Enforcing sector rules

Payment rules developed by Monitor and NHS England allow commissioners and providers to work together to determine local prices for services. This can help to support different ways of providing services that result in better, more cost-effective care for patients. [Our guidance](#) in setting these local prices states that relevant patient group representatives should be involved in the negotiation process. We are currently working with providers and commissioners in their use of these new rules.

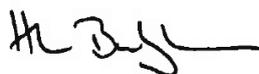
Monitor's [Procurement, Patient Choice and Competition Regulations](#) state that commissioners should rely on relevant evidence when considering how best to secure the needs of the population for which they are responsible and how to improve services. This may include consulting publicly on proposals, engaging with patients, patient groups, carers, local clinicians and other commissioners, seeking the views of out-of-area experts, and referring to relevant clinical guidelines and best practice.

In addition to the above, Monitor has regular contact both with Healthwatch England nationally, and local Healthwatch groups locally, in line with that organisation's statutory role as an independent consumer champion in health and social care. A partnership agreement details how Monitor will seek advice from local Healthwatch groups as part of the process of assessing a trust for foundation status. Additionally, Monitor will speak to local Healthwatch groups when launching any investigation into a foundation trust for a potential breach of its licence or when taking regulatory action. Monitor and Healthwatch England have also agreed further ways we will work together to ensure the health system works well for patients and have set these out in a shared work plan, which will be updated annually.

With regard to your specific questions regarding the rights of communities in determining the healthcare provided in their area, we believe these are largely a matter of commissioning policy outwith Monitor's responsibilities under the Health and Social Care Act.

We therefore believe that Clinical Commissioning Groups, providers of NHS services including FTs, and, when appointed, TSAs, are all well placed to consider and respond to claims from local communities for significant variations to local services. We seek to support these organisations through the use of our legal powers, and also through informal advice which encourages all decisions to be made in the best interest of patients.

Yours sincerely



Helen Buckingham  
**Chief of Staff**