Department of Health

Richmond House
79 Whitehall
London SW1A 2NS

Phil Morley
Chief Executive
Hull and East Yorkshire Hospitals NHS Trust

21 February 2012

Dear Phil,

Tripartite Formal Agreement (TFA) Escalation Meeting - Hull and East Yorkshire NHS Trust.

Further to our meeting on 14 February 2012, I am writing as agreed to record the main details we discussed. I have, at Annex 1, provided an overview of the full conversation.

As you are aware, the Trust having been red rated for three consecutive months in the TFA monitoring, which has triggered the first stage of the agreed escalation process. The aim of the meeting was to discuss issues, get clarity and an agreement on the way forward to progress towards Hull and East Yorkshire NHS Trust achieving Foundation Trust (FT) status.

Following discussion, we identified the following concerns that need to be resolved:

- mortality - with an HSMR of 117 you are a significant outlier against national measures;
- income - your contracted income does not match your activity month on month;
- board capability – this has now been addressed with several Non Executive (NED) and Executive Board changes including the Chairman;
- previous performance issues – now being addressed; and
- liquidity issues.

Thank you for the frank exchange of information in the meeting, which was helpful to gain a better understanding of the issues your Trust is facing.

After detailed discussion, we agreed that you will work with the SHA to establish a new TFA and Accountability Agreement to bring back to the Department of Health for our consideration. Once a new TFA is agreed, you and your Board will be held accountable for delivery of them.

We discussed the consequences of not delivering and you agreed that both you and your Board fully understand this.

I hope this accurately reflects our discussion but if you have any queries please feel free to contact either Angela Lamb or me in the first instance.

With reference to Annex 1, please come back to me if you feel I have misrepresented or omitted anything material from our discussion.

Yours sincerely,

MATTHEW KERSHAW
DIRECTOR OF PROVIDER DELIVERY

CC:
Mark Ogden, NHS North of England
Ian Dalton, NHS North of England
David Flory, DH

Annex 1

Your TFA had a formal submission date of 1 January 2012. You failed to submit to this agreed plan and have been in discussions with the SHA regarding an updated TFA and new submission date.

I explained the purpose of the meeting was to understand and resolve the issues relating to this failure to submit and the future plans for your organisation moving towards gaining FT status. Three consecutive red ratings has contributed to this escalation process.

I explained that the TFAs were important documents and commitments given in them had to be robust. I recognised that for Hull and East Yorkshire the approach was slightly different in that you had requested this review, but it was important to maintain the integrity of the TFA process that we approach the meeting in the established way. It was also important that any changes agreed had a clear rationale, and, that you were able to give assurances that they would solve the problems.

We needed to agree the best way to progress to FT status and I explained that any agreements reached today would be formally documented and you and your Board would be held to account against them.

I invited you to explain the reason for the failed submission.

You described your current assessment of an FRR of 3, a quality risk rating of less than 4 and a score of 1 against the Monitor compliance framework. You also described issues with the long Term Financial Model (LTFM) going forward despite having delivered a surplus for the last five years and that this has been delivered with additional local commissioner support so the normalised position was different.

Income
Historically, the PCT had under-contracted with a view to moving work out of the Acute sector and when this did not happen, they paid for activity over contract at the end of the year. This also enabled them to maintain higher levels of cash in their accounts. This approach to contracting had been resolved and needs to be ahead of your FT application going forward, but it made your HDD look as if the Trust was reliant on regular and discretionary top up funding from the PCT.

Board capability
You had used Deloittes to help assess Board capability and following this work and the difficulty with the missed FT application, the Chair had stepped down. A new Chair had taken up post in January 2012 and you were now working pro-actively on Board development.

Staff and Patient Surveys
The staff survey - The Trust had been in the bottom 10 per cent with Clinicians significantly disengaged, but you had made good progress on this by working hard on Organisational Development issues and involving them in the management structure. The patient survey results were also improving.

Mortality indicators
Mortality was a major issue with an HSMR of 117 but you demonstrated a good understanding of the background to this. Local demography issues, limited hospice beds and an Oncology unit meant many deaths related to Cancer admissions that could be provided for elsewhere if facilities were available were included in your figures. You believed that the numbers were not linked to quality issues. This had been externally verified by statisticians from CQC. You noted that you were aiming to reduce the rates, but given the demography and level of out of hospital provision it was unlikely to drop below 105.

I noted that although you appeared to have a good understanding of causative factors this would be an issue going forward with both DH Medical Director scrutiny and the Monitor assessment. It is important therefore that the plan to reduce rates to 105, which is within your control is delivered in order to achieve a level of confidence in the Trust.

You acknowledged this but highlighted a related concern with how the TFA had previously highlighted a quarter on quarter improvement. You suggested that this needs to be restated to you demonstrating improvement each Quarter on the previous year's same quarter and an overall year on year improvement to iron out legitimate seasonal variances. I agreed with this perspective but it is for agreement between you and the SHA.

Liquidity
This is a concern but you have plans agreed with the SHA to resolve this.

You had already made good preparations for next year's CRES. You had worked with both McKinsey and then KPMG to develop and then verify the plans. Delivery of this is absolutely crucial for you to demonstrate clinical and financial sustainability for the long term.

I asked you if your Board fully understand the significance of TFAs and that milestones in them have to be achieved? You replied that you think this has improved since the new North West SHA approach has influenced the process including the introduction of the Accountability Agreement. You added that the new Chair understands fully and the new Board membership (NED and Executive changes) is far more robust overall. The Trust was now achieving most targets including all Cancer targets and that Consultant staff were far more engaged.

You talked about potential partnership working with York on Tertiary services. Your LTFM was not dependent on this but it would be helpful to both organisations.

I asked for an SHA perspective and Mark Ogden said he felt this was a fair reflection of the overall situation.

I questioned why the original Board had signed up to what was now being identified as an unachievable TFA? If DH is to agree any changes David Flory will want to understand the risks involved before signing. I also stated that all the milestones in any new TFA and all performance must be delivered and the Board need to accept this.

You replied that you were confident about money, performance, operational targets, quality and governance but the main risk was ongoing delivery of all of these. You needed to set a clear trajectory on Mortality and deliver it. This was the only metric you were concerned about. You also believe the new Chair needs time to become established but that the new Board fully understands the implications of non-delivery against a new TFA.

In summary, I stated that I would write a note recording this meeting and that I would then look to the SHA to work with you to establish a new TFA including milestones and an accountability agreement alongside it. This would then be brought back to DH for consideration. You will need your Board and your Commissioner agreement to them.

Once these are agreed, the onus is then on you and the Trust to deliver them working with local commissioners.