Department of Health

Richmond House
79 Whitehall
London SW1A 2NS

Malcolm Stamp
Chief Executive
Mid Essex Hospital Services NHS Trust

25 April 2012

Dear Malcolm,

Tripartite Formal Agreement (TFA) Escalation Meeting – Stage One – Mid Essex Hospital Services NHS Trust.

Further to our meeting on 26 March 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, 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 Mid Essex Hospital Services NHS Trust achieving Foundation Trusts (FT) status.

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

- poor liquidity;
- legacy debt;
- the need to access capital;
- Cost Improvement Plans (CIPs)/efficiency savings delivery;
- potential reduction in the unitary payment on your Private Finance Initiative (PFI); and
- Care Quality Commission (CQC) moderate concern.

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. You have clearly made significant improvements to quality and access over the last six months which is positive.

After detailed discussion, we agreed you would work with the Strategic Health Authority (SHA) to establish your year-end position, consider your contract position with Commissioners for next year and also begin to map out a “Plan

B" which we will discuss in a Stage Two escalation meeting with David Flory and Sir Neil McKay once the information is available.

I have copied this to Dale Bywater so he can work with you to prepare for the Stage Two Escalation meeting and ensure the necessary paperwork is provided in advance.

I trust this confirms the very useful conversation we had and that once we have completed the second stage meeting, the Trust continues to progress to the long term clinical and financial sustainable position we all are working to achieve. 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:
David Flory,
Dale Bywater; and
Sir Neil McKay

Annex 1

Your TFA had a formal submission date of 1 February 2012. But this was not submitted and the purpose of this meeting was to give you an opportunity to go through the details of where you are with your application and what can be done to find solutions.

I explained that by the end of the discussion we need to agree what needs to be done. TFAs are important documents to hold people to account and to offer support when needed.

You explained that when you signed the TFA you knew there were three main issues to resolve: quality, performance relating to access and the financial position. You went on to say that you had concentrated on quality and access as your first priorities but that you understood the finances were still important.

When you got the results of the Department of Health PFI review in October 2011 you were disappointed to be considered to be in category 1, particularly since the review had used 2009/10 data. You recognised this is the final position however, and will continue to work on this locally.

Since meeting with me in May 2011 at the SHA session with Ian Dalton, you had recognised that the financial position was going to be a key problem and had therefore contacted Dale Bywater to say the February submission was no longer achievable.

I asked if the submission date was the main issue – did the Trust Board still feel a stand alone FT was achievable? You replied that the FT trajectory was on track, save for the finances. The Board does recognise that if no financial solution is found then you would not be viable as an FT on a stand alone basis.

You explained you have involved clinical leaders in planning the future and engaged them specifically on the possibility of requiring a Plan B. Since May last year you have made good progress on quality, performance, access and clinical engagement issues, building this success from a clinical perspective. The Medical Advisory Committee (MAC) now feel involved and you recognise this needs to be sustained going forward. The nursing workforce have also been galvanised to improve services for patients. You now have publicly visible quality/nursing dashboards displayed across the organisation.

You have had two moderate concerns from the CQC lifted and are tackling one new one – relating to training in medical engineering/equipment but the CQC have been very complimentary about the improvements made and, I noted your improvements in quality, including MRSA, C.Diff, pressure ulcers and access.

Cancer and A&E are both performing well with good links to Social Services.

All pre- February 2012 TFA milestones were delivered, with the exception of the February submission.

The Board recognises the size of the financial challenge. You had to find £20million to fund equipment in your new PFI hospital to close the deal and have therefore needed loans to pay operational costs (pay). Your Trust asset base is higher than other comparable acute providers locally. You have poor liquidity and underlying financial problems. You have a capital loan approved but only to end of May 2012. You recognise the need to reduce legacy debt. You have not delivered against planned CIPs, which will knock on to subsequent years' CIP plans.

You outlined various options you were considering to address your financial issues. These included re-profiling existing loans over ten years; additional financial support: £10million in 2012/13 and £5million in20 13/14, a reduction in the PFI unitary payment; Commissioner agreement to activity/income levels; access to capital resources to aid site rationalisation and service modernisation; and support for accelerated depreciation of £8 – £10million.

I asked how we could be confident that these plans would deliver? Were the planned CIPs over the next three years deliverable? You answered that the Board believed that it would be if the additional support outlined above was made available and the CIPs were therefore circa 6 – 6.4 per cent (rather than the current estimate of circa 10% without support. Dale Bywater stated that he remained concerned that based on last year's performance. You replied that you had undertaken an aggressive review of CIPs and the Board is comfortable with them.

I stated that the Department has an agreed mechanism to help FTs with legacy debts going forward providing everything else is delivered. This is only done at the point of application and once all other issues are resolved.

We then moved on to discuss the options if an FT application is not do-able. You described that your Board had discussed a possible merger/acquisition, and named specific trusts. These had clinical synergies that made sense. You commented that any solution would still require some transitional financial support and/or service changes to reduce costs.

We agreed what the next steps would be. You will be discussing your year end position with the SHA and map out a potential "Plan B". You will need to confirm next year's contract with Commissioners. During this time you need to maintain delivery on performance.

The next stage would be to move into stage two of the escalation process which would involve David Flory and Sir Neil McKay to enable a joint conversation about the best way forward. We need to agree a sensible sustainable future plan and the sensible date of this meeting will be towards the end of April once the necessary information is collated. This will consider either transitional support and/or organisational change options.

I agreed to discuss your PFI with Peter Coates to consider whether we can agree “PFI pathfinder” status to help with your PFI negotiations.

In summary, I said I would write a note recording this meeting and the outcome and would then look to the SHA to have further discussions with you prior to the second stage escalation meeting.