

Malcolm Lowe-Lauri
Chief Executive
University Hospitals of Leicester NHS Trust

22 February 2012

Dear Malcolm,

**Tripartite Formal Agreement (TFA) Escalation meeting – University
Hospitals of Leicester NHS Trust (UHL)**

Further to our useful escalation meeting on 27 January 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 relating to missing the Foundation Trust (FT) application submission date (October 2011) as signed up to in your TFA, which in line with the agreed process, triggered this escalation discussion. The aim of the meeting was to discuss the issues that caused this submission date to be missed and discuss how to progress your organisation towards achievement of FT status.

Following your detailed articulation of the issues your organisation has faced, and is facing, I concluded the meeting as follows:

- that the plan you articulated in your presentation was comprehensive and provides the details of an updated plan to move forward to FT status;
- on this basis a new TFA will need to be prepared to reflect this new plan, it was important that the TFA included all of the key actions required to be undertaken by the Trust and not just those related to contractual and liquidity issues;
- the new TFA will need to provide the necessary detail in relation to the key actions that will need to be taken, acknowledging the current TFA does not provide sufficient detail;
- the new TFA will also need to include detail about how general performance will be gripped as this was acknowledged to be a key risk area for the Trust's progression towards FT status;

- the Trust will need to undertake the assessment against the Board Governance Assurance Framework as part of its FT application.

We discussed the potential organisational and or personal consequences of not delivering the specific milestones and overall timeline agreed in your revised TFA and you stated that you, your Chair and the Board understand the implications very clearly.

On this basis, and subject to the above being taken forward, there will be no requirements for any further escalation meetings at this stage.

The next actions will be us working with NHS Midlands and East and your organisation to agree the new TFA and for this to be the new basis upon which you will go forward. Delivery of this new plan, and evidence of the necessary progress being made towards moving forward with an FT application will continue to be monitored and determine whether any further interventions/escalation are necessary in the future. It was noted that delivery of the commitments made to NHS Midlands & East by the end of 2011/12 would be the first key milestone that will be monitored closely. This was essential in providing confidence to us all that your board have learned from the problems encountered earlier in the year and that you are in a position to deliver the revised TFA timeline.

I hope this accurately reflects our discussion and if you have any queries feel free to contact me.

With reference to Annex 1, please come back to Andrew Morgan (andrew.morgan@dh.gsi.gov.uk) or myself if you feel I have misrepresented or omitted anything material from our discussion.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Kershaw', with a large, sweeping loop at the end.

MATTHEW KERSHAW
DIRECTOR OF PROVIDER DELIVERY

CC:
Sir Neil McKay, NHS Midlands and East
Dale Bywater, NHS Midlands and East
David Flory, DH

Background

The Trust's TFA has a submission date of 1 October 2011 when the FT application was due to be submitted to DH, this was not achieved and triggered the escalation process.

The key reason for the TFA submission date being missed related to the significant financial performance issues that arose in 2011/12, and which a large part of the discussion focussed around. It was noted however that based upon service performance the trust would not have been in a position to submit a credible FT application in October 2011, regardless of the financial issues.

In terms of plans 2011/12 there was an acknowledgement that there was some complacency on the CIPs signed up to (£38million around 5 per cent) of which £34million were agreed. Relating to this was a sense that there was too much focus on quality/safety implications of the Cost Improvement Plans (CIPs), which while an absolutely critical aspect to this work, was at the detriment of delivering the actual savings. In addition, significant proportion of the CIPs were cost-cutting and not service redesign which is what is needed.

Part of the loss of grip on the finances related to some of the new processes not necessarily being implemented in the most effective way. This included some areas where clinicians were not fully engaged, as they needed to be, along with a sense that autonomy for financial responsibility was devolved to newly established Divisional teams too early without sufficient controls and processes in place to support this devolved accountability. Although the lack of capability within some of these teams was a key issue identified by the trust in explaining the lack of expenditure control, it was noted that these teams had only recently been appointed by the trust following a revision to the management structure.

It was stated that it was a surprise that 2010/11 performance did not roll forward into 2011/12 but looking at the evidence, including there being the same cost bases in Q4 2010/11 and Q1 2011/12, when clearly the former should be adjusted for winter pressures, confirmed that some things were not gripped as necessary.

Another contributing factor was the overnight impact of the tariff changes in 2011/12 and something that is being managed tighter for future years.

The issue of contracting was raised and the question asked about why the Trust was not completely in sync with other parties. The response was that this has been acknowledged and is something that new processes have been agreed with commissioners to ensure this does not happen going forward. This includes a "pre-arbitration" arbitration process to facilitate the timely agreement of contracts.

A general point raised throughout the discussion was that the necessary transformation activities that the trust had committed to undertake when the

financial deficit emerged early in 2011/12, had not yet taken place in any meaningful way but was now more in focus, with a view to implementation during 2012/13. This materialised itself in most of the transformation fund not being used for transformation related activities.

The issue of the over use of secondary care being used in the LHE was raised and something the Trust continues to work with stakeholders on.

Resolution of the sub-tariff issues that the Trust had faced continued to be taken forward, including working with Clinical Commissioning Groups to ensure these decisions/agreements are future-proofed where possible.

It was stated that there is strong commissioner support to the Trusts FT application and support to addressing the 2011/12 performance issues.

The Trust is managing the conflicting priorities of transformation and moving to FT status and getting this balance right is a key task for the Trust Board given both these things need to be delivered which have cross-cutting objectives and support each other.

As part of addressing the financial performance issues there is currently a deliberate increased central control on expenditure to get this in the right place. Alongside this a transformation support office has been established in the organisation to ensure the necessary delivery of these changes that are needed.

It was articulated that the financial issues faced by the Trust had not adversely impacted on the delivery of quality services.

On service performance the Trust felt that it was broadly on track to meet the requirements needed to achieve FT status, although this appears a significant risk given current challenges with cancer 62 days, c-diff and A&E. The point was made that the Trust need to ensure they are fully aware of the key indicators and the levels of performance that are required to move forward in the process.

In terms of wider developments the Trust should consider the timing of major strategic changes where these may put at risk progression to FT status in line with the Governments commitment to get the majority there by April 2014, and which is expected of UHL.

We need to agree a new date with clear milestones. Matthew Kershaw noted the consequences of failing to achieve this new TFA, which your Board fully understood.