

Councillor Ged Clarke  
Chairman of Health and Wellbeing  
Nottinghamshire County Council  
County Hall  
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13 May 2011

Dear Councillor Clarke,

**Newark Review**  
**Sherwood Forest Hospitals NHS Foundation Trust (the "Trust")**  
**NHS Nottinghamshire County (the "PCT")**

I am writing with reference to your letter to Monitor of 5 April 2011.

In your letter, you referred to a number of concerns raised by Nottinghamshire County Council's Health and Wellbeing Standing Committee about a set of proposals known as the Newark Review (the "OSC"). You indicated that the OSC was minded to refer these proposals to the Secretary of State and to Monitor. I understand that on the same date of writing, you referred the proposals, in so far as they relate to the PCT, to the Secretary of State.

I would like to take the opportunity to thank you for bringing your concerns to Monitor's attention. As the regulator of NHS foundation trusts, Monitor uses information of the type that you have provided alongside information drawn from a range of other sources to assess NHS foundation trusts' compliance with their terms of the Authorisation.

NHS foundation trusts' terms of Authorisation make clear that they are required to comply with all relevant legislation. Your letter raises the concern that the Trust has failed to comply with the Health Overview and Scrutiny Regulations 2002. These regulations require each NHS foundation trust to consult the local overview and scrutiny committee where it proposes to apply for a variation to its Authorisation and, if granted, that variation would result in a substantial variation in the provision of protected goods and services. As the Trust has confirmed that the proposed changes do not require a variation to its Authorisation, it does not have a legal obligation to consult the OSC, and therefore this is not an issue which gives rise to concern that it is breaching its terms of Authorisation.

Your letter also refers to the OSC's concerns about the level of public consultation carried out in relation to the Newark Review. The National Health Service Act 2006 requires NHS bodies to involve service users, for example, when they are considering proposals for changing the way in which their services are provided or operated. This duty does not impose an obligation to carry out a formal consultation

and can be satisfied, for example, by providing information about the changes to service users or their representatives. Further information about the duty can be found in the Department of Health's statutory guidance entitled '*Real Involvement: Working with People to Improve Health Services*'. You can access the guidance using the following link to the Department of Health's website:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_089785.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_089785.pdf)

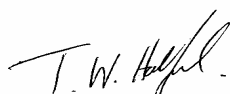
I understand that, under arrangements agreed between the Trust and the PCT, the PCT consulted members of the public about the proposals over a 14 week period. The Trust has confirmed that it contributed to and played an active part in this exercise, including attendance at public events, the provision of information and consultation with the Trust's Board of Governors.

It is not Monitor's regulatory role to form a view on the way in which the PCT discharges its duties, nor does Monitor have the statutory remit to act in response. However, should there be any indication that the Trust had failed to act properly and with good governance in its own consideration of the proposals, including where appropriate seeking the views of commissioners and independent experts, or to cooperate appropriately with other bodies, then Monitor would seek to establish whether this may constitute a failure of the Trust to act in accordance with its terms of Authorisation.

I would like to reassure you that Monitor takes very seriously the requirements for NHS foundation trusts to act in accordance with good governance and to cooperate with other bodies. However, at this time, Monitor has no reason to believe that the Trust is not doing so in respect of these proposals.

In the meantime, if I can be of further assistance, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'T. W. Halford'.

**Tim Halford**  
Senior Compliance Manager