To:	**Trust Board**
From:	CHIEF EXECUTIVE
Date:	**5 APRIL 2012**
CQC regulation:	ALL

Trust Board Paper C

Title:	**MONTHLY UPDATE REPORT – APRIL 2012**

Author/Responsible Director: Chief Executive

Purpose of the Report: To update the Trust Board on topical issues.

The Report is provided to the Board for:

Decision		Discussion	
Assurance	√	Endorsement	

Summary / Key Points:

- The ongoing work to finalise the Trust's Annual Plan 2012/13
- The results of the Staff Attitude and Opinion Survey 2011
- Health and Social Care Bill

Recommendations:

The Trust Board is invited to receive and note this report.

Strategic Risk Register N/A	**Performance KPIs year to date** N/A

Resource Implications (eg Financial, HR)
N/A

Assurance Implications
The report aims to assure the Trust Board on a number of topical issues.

Patient and Public Involvement (PPI) Implications
N/A

Equality Impact
N/A

Information exempt from Disclosure
N/A

Requirement for further review ? Monthly report to each Trust Board meeting.

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT TO: **TRUST BOARD**

DATE: **5 APRIL 2012**

REPORT BY: **CHIEF EXECUTIVE**

SUBJECT: **MONTHLY UPDATE REPORT – APRIL 2012**

---

1. KEY ISSUES

1.1 The key issues to be discussed by the Trust Board at this meeting include:-

(a) The ongoing work to finalise the Trust's Annual Plan 2012/13;

(b) The results of the Staff Attitude and Opinion Survey 2011.

2. HEALTH AND SOCIAL CARE BILL

2.1 The Health and Social Care Bill gained Royal Assent on 27th March 2012 to become the Health and Social Care Act 2012.

2.2 The Foundation Trust Network has produced a brief analysis on timelines relating to the Act which provides an overview of when certain parts of the Act are to come into force. Appended to the timelines is a list of those proposals expected to come into force within two months of Royal Assent (so by June this year).

A copy of the briefing is attached.

3. RECOMMENDATIONS

3.1 The Trust Board is invited to receive and note this report.

Malcolm Lowe-Lauri
Chief Executive

29th March 2012

Health and Social Care Act 2012
Implementation timeline

The table below gives a timeline of the key dates relating to the implementation of the Health and Social Care Act. At this stage some timings are still provisional, as the bill has not formally received Royal Assent.

Date	Health and Social Care Act milestones
2011	
31 October 2011	NHS Commissioning Board Authority (NHS CBA) established as a shadow special health authority.
2012	
April 2012	Health and Social Care Act 2012 expected to receive Royal Assent. NHS CBA takes on some National Patient Safety Agency functions. Local Education and Training Boards (LETBs) established as subcommittees of the SHAs. A Draft Education Outcomes Framework is published.
April to September 2012	Consultations expected on: • Licensing exemptions (April – June) • Risk pooling provisions (April – June) • Pricing methodology – disputes (April – June) • Health Special Administration for companies (May – July) • Commissioner regulations – good practice and risk pooling (July – September)
c. June 2012	The majority of the provisions of the Act come into force, two months following Royal Assent, except where separate provision / regulation is made. ***The appendix below on page 4 gives the detail of these provisions.*** NHS Trust Development Authority (NHS TDA) and Health Education England (HEE) established as special health authorities.
July 2012	Monitor as sector regulator to be established, expected to commence licensing functions from 1 January 2013. Overarching duties and general powers commence as do its new FT duties, outwith the formal licensing regime.

Date	Health and Social Care Act milestones
	Monitor commences pricing functions with the NHS Commissioning Board for 2014/15 tariff.
October 2012	Monitor starts to take on its new regulatory functions. HealthWatch England and local HealthWatch are established NHS CBA becomes an executive non-departmental public body, responsible for planning 2013-4. Authorisation of Clinical Commissioning Groups (CCGs) begins. There will be three phases of CCG development – shadow CCGs; those authorised with conditions; and fully authorised (established without conditions). Appointments Commission transfers its functions to the NHSTDA. HEE commences in shadow form and Medical Education England (MEE). LETB authorisation begins (so they can start in April)
2013	
1 January 2013	Monitor licensing regime expected to commence for NHS Foundation Trusts. Foundation trust continuity of service regime commences. Competition Act 1998 powers concurrent with OFT are commenced.
1April 2013	Monitor starts to license non-FT providers. Regulations (including exemption) to support the provider licensing regime come into force. Regulations: - for NHS commissioners protecting patient choice, procurement, and preventing anti-competitive behaviour come into force. - to specify threshold for referring disputes to the pricing methodology to the Competition Commission come into force. - to specify threshold for referring disputes to provider levies to the Competition Commission and commissioner charges regulations come into force. SHAs and PCTs are abolished and the NHS Commissioning Board takes on its full functions. All of England will be covered by established CCGs, with the vast majority of these being fully authorised. Health Education England takes over SHAs' responsibilities for education and training. Local Education and Training Boards commence work and evolve. The NHS Trust Development Authority takes over SHAs' responsibilities for the foundation trust pipeline and for the overall governance of NHS trusts. Public Health England established.

Date	Health and Social Care Act milestones
2014	
2014	Joint Monitor and CQC licensing regime not expected until 2014.
April 2014	The remaining NHS trusts are expected to largely be authorised as foundation trusts by April 2014 or as soon as possible afterwards to 2016. 2014-15 the first year of NHS Commissioning Board and Monitor working together on pricing methodology and tariff. Financial mechanisms (risk pool) to go live. Health special administration (companies), including regulations and rules, comes into force.
2016	
April 2016	Monitor's transitional powers of oversight over foundation trusts will be reviewed (except for newly authorised FTs, where Monitor's oversight will continue until two years after the authorisation date if that is later) – presumption now that FTs will remain in the compliance regime unless they pass an "exit text" to leave; for this to be possible, a test will need to be devised and a future for the PDC steward function will need to be confirmed.

Appendix

The following sections of the Act will come into force two months from Royal Assent being given.

NHS foundation trusts

Provisions relating to governors

- Governor bodies are renamed 'Councils of Governors'.
- FTs will no longer need to appoint a PCT governor.
- FTs can appoint one **or more** governors from any organisation specified in the constitution.
- Governors have two new general duties:
    - To hold of the non-executive directors individually and collectively to account for the performance of the board;
    - To represent the interests of members as a whole and of the public.
- FTs must equip governors with the skills and knowledge they need to carry out the role.
- Governors have a new power to require one or more directors to attend a meeting (of the council) to obtain information on the performance of the FT and to help them to decide whether to propose a vote on the performance of the FT. FTs must report on the number of times this power was used each year in their annual report.

Directors

- Directors have a new duty to promote the success of the FT so as to maximise the benefits for members and for the public.
- Directors have a duty to avoid conflicts of interest and to declare any that should arise
- Directors have a duty not to accept benefits from a third party by virtue of their being a director or for doing or not doing anything in this regard.
- Directors must send a copy of the agenda of the board meeting to the council of governors prior to the meeting taking place and a copy of the minutes of a board meeting to the council of governors as soon as is practicable after a meeting of the board.
- ***The constitution must make provision for meetings of the board of directors to be open to the public.***
- ***The constitution may make provision for parts of the meeting to be held in closed session for special reasons.***

Members

- In deciding on constituencies and on whether to have a patient/service user constituency FTs need to take account of the need for those eligible for membership to be representative of those to whom the trust provides services.

Meetings

- FTs are required to hold annual members meetings to receive the annual report, accounts and any report of the auditor.

Amendment of the constitution

- A majority of both the board of directors and the council of governors needs to approve amendments to the constitution.
- Monitor no longer has a role in approving constitutions.
- Any amendments regarding the powers or duties of governors must be approved by the annual members meeting or they will cease to remain in force.

Panel for advising governors

- Monitor has the power to establish a panel to advise governors in the event that a council passes a resolution and complains to Monitor that the FT has failed to act in accordance with its constitution or with the provisions of Part 4 of the Health and Social Care Act 2012.
- The panel will have the power to decide whether or not to investigate, but must publish the report of any investigation.
- The panel does not have the power to compel attendance but may comment on any refusal.
- The recommendations of the panel are not binding.

Finance

- Removal of the prudential borrowing code.
- New criteria and transparency for the secretary of state to provide financial assistance in the forms of loans or public dividend capital.

Goods and services (containing provisions relating to the private patient income cap)

- The principal purpose of FTs is defined in the Act as the provision of goods and services for the purposes of the health service in England.
- An FT may provide any services relating to treatment of individuals or in connection with the diagnosis, treatment or prevention of illness or for the promotion of public health.
- ***An FT does not fulfil its purpose unless its total income from the provision goods and services for the purpose of health services in England is greater than its income from all other provision.***
- ***Each annual report must include a section on the impact of non-NHS funded income on the provision of NHS funded services.***
- ***Each forward plan must contain a section on non-NHS funded services and the income that is likely to be generated from it.***
- ***Where a proposal is included in a forward plan for non-NHS funded services the council of governors must consider whether it is satisfied that it will not, to any significant extent, interfere with the fulfilment of the FTs primary purpose and inform the board of directors of its decision.***
- ***Where an FT proposes to increase income from non-NHS funded sources by more than 5% of its total income it may implement the proposal only if more than half of the council of governors voting approve the proposal.***

Significant transactions

- FTs can only enter into significant transactions with the approval of half of those members of the council of governors voting.
- Significant transactions must be defined in the FT's constitution or the constitution must specify that it contains no such description.

Mergers, Acquisitions, Separations and Dissolutions

- Applications may only be made where they are supported by more than half of the council of governors of each applicant where there more than one FT is involved.
- The regulator must grant an application if it is satisfied that such steps have been taken as are necessary to prepare for the transaction
- Where one of the parties to a merger or acquisition is an NHS trust the approval of the secretary of state is required.

Healthwatch

- The Act establishes Healthwatch England as an independent body linked to the CQC.
- The role of Healthwatch England is to be the patient/service user champion within the CQC, to provide advice to the CQC and the Secretary of State and to escalate individual cases that merit the attention of the CQC.
- Healthwatch England will oversee the work of local Healthwatch groups.
- Local Healthwatch groups will be commissioned by local authorities and will take over the duties of Local Involvement Networks (LINks) . LINks will be abolished.

Public Health

- Local authorities have a duty to appoint a director of public health. Directors of public health will have an accountability line to the Secretary of State as well as to the local authority.
- Local authorities will take on an increased number of public health functions subject to guidance from the Secretary of State.

Strategic Health Authorities and Primary Care Trusts

- Strategic Health Authorities and Primary Care trusts will be abolished subject to regulations to bring this section of the Act into force.