MONITOR RISK ASSESSMENT FRAMEWORK

Today Monitor published its updated Risk Assessment Framework (RAF), following a consultation on the proposed changes. NHS Providers submitted a full response to the consultation, which can be found on our website. This briefing provides an overview of the key changes to the RAF and our views on the implications for foundation trusts and the wider provider sector. You can find the RAF document and Monitor’s summary of consultation responses on its website.

KEY CHANGES

Monitor has made the changes to its Risk Assessment Framework (RAF) in response to the increasingly challenging financial context facing the sector. The changes are intended to strengthen Monitor’s regulatory regime so that it can help foundation trusts (FTs) live within their means and support improvements in financial efficiency across the sector.

The majority of changes proposed within the consultation will be implemented. An overview of the key changes can be found below. Members will of course also wish to read the RAF document in full.

Introduction of a financial sustainability risk rating

- Monitor is replacing the previously used ‘continuity of service risk rating with the ‘financial sustainability risk rating’.
- This risk rating represents Monitor’s view of the likelihood that a licence holder is, will be, or could be in breach of the continuity of service licence condition 3 and/or the provisions of the NHS foundation trust licence condition 4 (governance ) which relates to finance.
- The financial sustainability risk rating will be calculated using the following measures:
  - **Liquidity**: days of operating costs held in cash or cash-equivalent forms, including wholly committed lines of credit available for drawdown
  - **Capital servicing capacity**: the degree to which the organisation’s generated income covers its financial obligations
  - **Income and expenditure (I&E) margin**: the degree to which the organisation is operating a surplus/deficit. The I&E margin is defined as surplus/(deficit)/total operating and non-operating income. Surplus/(deficit) should be calculated before impairments, transfers by absorption, gains/losses on asset disposal and restructuring costs.
  - **Variance from plan in relation to I&E margin**: variance between a foundation trust’s planning I&E margin in its annual forward plan and its actual I&E margin within the year.
- The table below outlines how the risk rating will be calculated:
The overall score informs Monitor’s regulatory approach towards foundation trusts. The below table outlines the regulatory implications of each score, more detailed information can be found within the RAF document (p.28-29).

Introduction of monthly reporting

In its Foundation Trust Bulletin, published on 29 July 2015, Monitor notified foundation trusts that from month 4 (July 2015/16), it will be collecting monthly financial data from all foundation trusts.
The monthly collection will not supersede the quarterly reporting process; which will remain a comprehensive review of both financial and governance positions and ratings will continue to be published on a quarterly basis.

The intention is to provide additional visibility between the quarterly monitoring process and allow Monitor to identify areas of concern sooner. The monthly data collection will require selected information in the same template return as the quarterly collection for ease of use and board sign off is not needed for the monthly submission, prior to submission.

**Value for money governance measure**

Monitor is introducing a measure within the existing governance rating to assess whether foundation trusts are delivering value for money. If a provider demonstrates inefficient/uneconomical spend (actual or likely) compared to published benchmarks, this may trigger an investigation.

Where appropriate national benchmarks are not yet available, Monitor may also consider investigating a trust if there is other material evidence to suggest a trust is delivering poor value for money. For example, Monitor may look at whether a foundation trust is adhering to good practice regarding agency and management consultant spend. Where this is the case Monitor will discuss the evidence with the foundation trust in question.

**Removal of referral to treatment and non-admitted targets**

Following the letter of 24 June issued by Monitor, NHS England and the TDA, Monitor will not be taking regulatory action on the grounds of failure of admitted and non-admitted referral to treatment targets from 24 June 2015. These measures have therefore been removed from the RAF. The ‘referral to treatment wait time – patients on an incomplete pathway’ remains.

Monitor will review each foundation trust that is currently under investigation or in breach of their licence for failure to meet the removed targets on a case by case basis. Monitor’s relationship teams will contact the foundation trusts affected by this change in the coming weeks.

**Changes to the Accounting Officer memorandum**

Monitor has updated the accounting officer memorandum to strengthen the requirement to consider value for money. The following changes have been made to paragraph seven of the memorandum:

- “the accounting officer must ensure financial systems and procedures promote the efficient and economical conduct of the business and safeguard financial propriety and regularity throughout the NHS foundation trust”

Amended to:

- “the accounting officer must ensure the foundation trust delivers efficient and economical conduct of its business and safeguards financial propriety and regularity throughout the organisation”

And

- “the accounting officer must ensure financial considerations are fully taken into account in decisions on NHS foundation trust policy proposals”

Amended to:

- “the accounting officer must ensure financial considerations are fully taken into account in decisions by the NHS foundation trust”
The accounting officer is held to account on the commitments made by signing the memorandum by the Public Accounts Committee via the Comptroller and Auditor General (C&AG) who leads the National Audit Office. Therefore if a foundation trust is found not to have delivered on the commitments set out within the memorandum the accounting officer may be required to appear before the PAC to provide an explanation on why the commitments have not been met.

NHS PROVIDERS VIEW

The changes to the RAF are well intentioned in that they aim to help foundation trusts “live within their means” and support improvements in financial efficiency across the sector. However, while we recognise the growing financial and operational pressures on all trusts, we question how gathering additional, detailed information from FTs more regularly will add value and whether the increased reporting burden will be offset by greater benefits to NHS providers individually and as a sector - in short, whether this approach is the most effective and appropriate way to enable the sector to deliver high quality services, make improvements and contribute to the productivity challenge.

We are also concerned that the changes to the RAF seem likely to result in an increased number of regulatory interventions or investigations at providers which are historically well-led and are currently facing financial difficulties due to systemic issues that are often beyond their control. We have therefore urged Monitor to take a pragmatic view when considering how to respond to a trigger and to look outside the trust’s boundaries to consider all the factors that may affect its financial position.

Monitor’s changes to the RAF must be considered within the broader context of NHS policy, particularly taking account recent announcements from the Department of Health and arm’s length bodies; including caps on agency and consultancy spending and controls on very senior manager pay. While these interventions may be well intentioned, and seek to reverse the rapid decline in financial performance within the sector, we are concerned that, when taken together, they signal a more interventionist approach rather than an attempt to deal with the underlying systemic and structural causes of the current pressures facing the sector.

We have however welcomed Monitor’s open engagement with us, and members, during the consultation period on the RAF. On an important point of detail, we also welcome the removal of ‘variance on planned capital expenditure’ from the ‘variance from plan metric’ as we had questioned the reliability of this metric as an indicator of financial instability.

We look forward to working with Monitor and our members to ensure that the regulatory frameworks remain risk based, effective and proportionate and to continue early discussions about the development of the proposed value for money indicator. As always, we welcome members’ experiences of how responding to the revised RAF impacts at the frontline, both in terms of potential benefits, and any increased reporting burden.