

Mr Alan Yates
Chief Executive
Mersey Care NHS Trust
Princess Dock
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St Nicholas Place
Liverpool L3 1DL

14 MAY 2008

Dear Alan

Thank you for your contribution to the review on options to explore Foundation Trust (FT) status for High Secure Services.

I am writing to confirm that based on the findings of the review, Secretary of State has decided – with the help of the Department’s legal counsel - to go for option 2. That is to look at ways in which your organisations can enjoy the kinds of benefits Foundation Trusts are able to access, whilst maintaining all the current powers of direction that the Secretary of State currently has. You will recall that retaining this line of sight was a fundamental pre-condition on which the review was carried out. The prevailing legal advice from the Department was that it could not be maintained if High Secure Services were to be granted FT status, without changing primary legislation.

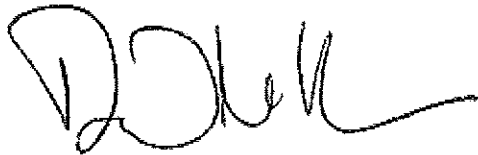
I understand you have now met with David Flory and his team to discuss this further; in particular, to identify the range of benefits you would wish to be able to access should you be successful in the assessment process. David will be writing to you next week with a detailed action plan to work through the detail of all this, and to provide an outline timetable. I know that you would expect to be subject to a Monitor process (as far as Monitor’s statutory remit will allow). This process will address, for example, governance and financial viability and should have the same rigour as Monitor’s conventional FT authorisation. Monitor have agreed to work with us to determine what this process would involve. You would not however take the final step, and your trust would remain accountable to the Department, with the Secretary of State retaining all his current powers of direction.

I know that you will be disappointed with this outcome, and in your letter of 13th September you reiterated this position. I do though want to assure you that we are determined to move quickly to ensure you are able to access the benefits of FT equivalency whilst retaining the accountability to Ministers.

Amongst other things we will need to decide how to recognise and give a distinct identity to high secure service providers who demonstrate their prowess by attaining FT equivalency.

I am very grateful for your patience and the co-operative manner in which you have engaged with this sensitive issue over a prolonged period. And I want to acknowledge the significant developments that have taken place over the last year. There has been a high degree of collaborative leadership between the three high secure service providers, alongside corresponding improvements in commissioning, assurance, and a comprehensive programme of performance management. I do not underestimate the degree of difficulty involved and neither do I underestimate the effort that will be required to achieve FT equivalency. But if this were an easy thing to achieve then it would not be worth having.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Nicholson', with a long horizontal flourish extending to the right.

David Nicholson CBE
NHS Chief Executive