

# foundation trusts: five years on

Foundation trusts have introduced a number of significant improvements

to healthcare, but five years since their introduction much remains to be achieved, reports Paul Gosling.

■ Foundation trusts are now five years old. In their first year, just ten of the best performing NHS trusts converted to foundation status. Now there are 117 foundation trusts: more than half the acute and mental health trusts eligible to convert have done so. But have the Government's enormous expectations that greater independence would lead to better performance outcomes been realised?

Opinions on the performance of foundation trusts are mixed. The main problem in assessing the impact of foundation trusts is that only trusts that passed a performance threshold could achieve foundation status. Consequently – as the House of Commons Health Select Committee pointed out last year in its review of foundation trusts and their regulation – it is difficult to separate out the effect of becoming a foundation trust from the fact that only the best trusts obtain foundation status.

Monitor, the regulator of foundation trusts, is confident that an important step in the journey to improvement has begun. “NHS foundation trusts have now been in existence for five years – and although they have already had a positive impact on the NHS, we believe the system will take several years more to

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mature and deliver the full benefits of the policy,” says Stephen Hay, Monitor’s Chief Operating Officer.

“The NHS is used to looking ‘up’ not ‘out’ and those behaviours take time to change. We hope that in another five years the sector will be characterised by FTs with an increasingly clear focus on quality improvement, robust finances which allow them to make the investments they need to sustain quality, boards of governors who hold non executive directors to account on behalf of their members, long term strategies for how their organisations can evolve and develop, and mature relationships with commissioners who have a clear view of the health needs of their population.

“The importance of having strong boards taking responsibility for the quality of care provided in their hospitals and held to account by their patients and local community through governors should not be underestimated. The work Monitor is doing with the Department of Health and the CQC (the Care Quality Commission, the new healthcare regulator) on quality reporting is a really important next step in enforcing this accountability at board level. FTs, like the rest of the public sector, will be facing much tougher times ahead than we have seen over the last decade. We believe they are well placed to deal with these challenges and to deliver for patients and taxpayers.”

## governance

Yet one of the concerns hanging over foundation trusts relates to an area where it was intended they would show strong improvement – in governance. “While we saw some examples of good practice in FTs’ new governance arrangements, in general they seem to be slow to deliver benefits and despite numerous small studies, there remains a lack of robust evidence of their effectiveness,” concluded the Health Select Committee.

Those reservations have been underlined by other reports – and by failures within some foundation trusts. A new report from the Audit Commission, *Taking it on Trust*, concludes that all NHS trusts, including foundation trusts, need to have boards that are more demanding, assertive and independent. Boards’ failure to challenge executive staff was common across foundation trusts and other NHS trusts, it found.

Emma Knowles, Head of Financial Management at the Audit Commission’s health directorate, says: “The FT application process has helped to drive improvements in governance arrangements, particularly the level of challenge provided by the board, the development of a more strategic focus and the appointment of more non-executives with business skills and experience. However, there are NHS trusts that have effective governance

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arrangements in place and examples of governance failures in foundation trusts, notably the most significant NHS governance failure in recent times has been at Mid Staffordshire NHS Foundation Trust."

Knowles adds that the *Taking it on Trust* report did not specifically consider whether foundation trust governance had improved compared with other NHS trusts. "The report was just looking at governance across the piece," she says. But, she believes, "it probably is better at foundation trusts – but some are better than others". "The process that foundation trusts go through to become foundation trusts is helpful in improving governance," she argues.

#### getting it wrong: mid-Staffordshire

But the evidence of serious failure at the Mid Staffordshire Foundation Trust – where 400 more patients died than would have been expected – has shaken confidence. It would be wrong and misleading to interpret too much from the failures of one hospital, but there had been an assumption by some policy-makers that the weaknesses of a top-down, state-controlled institution would be put right simply by changing the governance and financial management systems of hospitals. The experience of Mid Staffordshire makes clear this is not the case.

Two detailed reports were carried out, investigating Mid Staffordshire – by Professor Sir George Alberti for the Healthcare Commission and by Dr David Colin-Thomé (the primary care tsar, who considered the role of the PCT) for the Department of Health. These concluded there had been understaffing in key parts of the hospital; patient assessments conducted by untrained staff; poor supervision and weak leadership; and poor equipment.

One of the major factors in these failures

was an excessive focus on finances, at the expense of clinical care, with little or no attention to clinical outcomes. It was also found that the Trust's board had not been effective in supervising services. Meanwhile, the PCT (South Staffordshire) paid more attention to meeting targets than to standards and the quality of clinical care.

It is apparent that moving from being an NHS trust to becoming a foundation trust is not a guarantee of continued high performance. Monitor intervened in the running of five trusts in the 2007/08 year, when those trusts failed to reduce their rates of MRSA infection in line with their plans. However, it should also be noted that of the 42 trusts ranked as 'excellent' in the 2008 Healthcare Commission Annual Health Check, the vast majority – 38 – were FTs.

#### clinical governance issues

Candace Imison, Deputy Director of Policy at the Kings Fund think-tank, says that one fact emerging from the inquiry into the failings at Mid Staffordshire that surprised many observers was that it had been able to become a foundation trust without resolving issues of clinical governance. In fact, says Imison, it is unclear that foundation trusts have delivered on the improvements to healthcare standards that were predicted by government.

"I think the jury's still out," says Imison. "We are doing some work trying to look at what impact they might have had. At the moment, there is not the evidence that they had a huge impact that is demonstrable. There is anecdotal feedback, with governors and directors of foundation trusts speaking favourably and saying it has had a positive impact. But there are issues around foundation trust governors and their effectiveness. There is a feeling that there needs to be more work on getting that right. My own view is that they are still at an

early stage of evolution and there isn't clear evidence pointing either way."

One indication from Mid Staffordshire is that governors – who included elected patient representatives – were not sufficiently engaged in overseeing clinical performance and standards. Imison is concerned that those governors elected from patients are not, as yet, driving the improvements it was assumed they would deliver.

But a DoH spokesman says: "Foundation trusts enjoy greater freedom to innovate new ways of delivering services for patients. Local communities in newly authorised trusts' areas have a greater say in how their local hospital services are delivered through locally elected boards of governors. Applying for NHS foundation trust status requires trusts to critically examine all parts of their governance structure and healthcare provision to develop their business plans. As a result the boards of NHS foundation trusts will have developed fit-for-purpose governance structures to operate effectively for the benefit of patients.

#### support from LINKs

The spokesman continued: "Following Sir George Alberti and David Colin-Thomé's reports into the events at Mid-Staffordshire, we will give extra support to LINKs [Local Involvement Networks] across the country, including a 'how to be heard' guide for the public and a national publicity campaign to promote awareness of the role of LINKs in influencing local decision making around NHS services. We should also expect NHS organisations to publicly demonstrate that they are putting patients and the public at the heart of designing their services. We will therefore require relevant NHS organisations to publish a new annual statement of involvement to demonstrate how they are implementing the legal duty to involve patients



**ACCA's governance project**  
 ACCA is conducting a research project into governance in the NHS over a three year period, in collaboration with the Department of Health. An annual survey is sent to board members of all NHS organisations and a report produced at the end of each year. The findings at the end of year two will be published later this month at a launch event at the House of Commons on 24 June.

The second survey included specific questions regarding FTs and the separate Code of Governance that Monitor requires FTs to comply with. The respondents from FTs and aspirant FTs considered that the Code provides a more effective and easier framework than previous NHS guidance, but there was less consensus that the Code had actually improved governance arrangements. It was also noted that significant changes were required locally to move to the FT model.

In terms of other themes which are referred to in this article, the results of the second survey revealed fewer respondents identifying gaps in the skills and competencies of Non Executive Directors, which would support the view that the quality of board members is improving as the number of FTs increase. However, there was a strong concern in both years as to the amount of time that NEDs have to commit the role.

The second survey also sought to gain views on assurance arrangements and identified that assurances from clinical audit are generally perceived to be less effective than other tools available to the Board. This would seem to support the clinical governance concerns identified in the article. The third and final survey will seek to drill down further in this area, with its findings published in 2010.

and the public that came into law in November last year. We would expect the statement to include a commentary by the relevant local organisations that represent patients and the public, including the LINK and the local authority's overview and scrutiny committee."

**local population accountability**

There have been suggestions that foundation trusts have failed in meeting one of their other key aspirations – accountability to their local populations. A review conducted for the Department of Health by the Mutuo think-tank (which promotes models of mutuality and community engagement) and the University of Birmingham (led by Professor Chris Ham, formerly a special advisor at the Department of Health, who was involved in developing the foundation trust model) concluded that "the [FTs'] hybrid governance model [containing members elected by trust lay members and others put forward by PCTs, councils, universities and other organisations]... is working increasingly effectively".

Peter Hunt, Chief Executive of Mutuo, dismisses criticisms of foundation trusts' democratic mandate. "It depends on what your expectations are," he says. "In your average district hospital, there are 250,000 people in the service catchment area, with typically about 15,000 members. You could say that is only

a small proportion of the people. But you have to appreciate that most people don't join any organisation, so it depends on what you are trying to achieve through people joining.

"Much more important to me is what you achieve – that people elected as governors are broadly representative, that they are not just posh middle class people from the suburbs."

However, concedes Hunt, many foundation trusts have failed to make much effort to persuade their local populations to join, or explained to them why they should join. "There is much more work to do about relating to the wider public," he says, "which is about explaining the value of membership. It's about changing the nature of a state service – making it a lot more relevant and accountable to them. If I was being critical, I would say many trusts have not been able to explain the value of membership and get this across to the general public."

But, adds Hunt, the figures could be portrayed as a real success. "Over the whole country, over a million people have joined foundation trusts: that's just in England. That's a pretty big deal."

The biggest deal of all, though, would be if foundation trusts actually deliver improved healthcare outcomes at a lower cost. Here, the doubts remain. ■

Paul Gosling is a freelance journalist