

Director-governor interaction in NHS foundation trusts

*A best practice
guide for boards
of directors*





Independent Regulator
of NHS Foundation Trusts

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- 2: ensuring that foundation trusts comply with the conditions they signed up to – that they are well-led and financially robust; and
- 3: supporting foundation trust development.

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Director-governor interaction in NHS foundation trusts: a best practice guide

The role of governors in NHS foundation trusts

Foundation trusts (FTs) are part of the NHS but are independently run and directly accountable to their local communities for the performance and strategic direction of the trust. This is achieved through the trust governance structure, in which a unitary board of directors is scrutinised by, and answers directly to, the governors of the trust.

Governors are the direct representatives of local community interests in FTs. The governing council, or council of governors as it is referred to by the majority of FTs, consists of public governors (and optionally patient, service user and carer governors), who are elected by the public members of the trust (people from the local community who have an interest in the strategic development of the organisation), as well as staff governors and appointed governors. Staff governors represent the interests of the staff members at the FT and appointed governors are representatives of key stakeholders such as commissioners, local councils, universities, local voluntary groups and charities.

The existing statutory duties of FT governors, under the National Health Service Act 2006, are to:

- appoint and, if appropriate, remove the chair and non-executive directors (NEDs);
- decide the remuneration and other allowances of the chair and NEDs;
- approve the appointment of the chief executive officer (CEO);
- appoint and, if appropriate, remove the trust's auditor; and
- receive the annual accounts, auditor report and annual report.

For further details of the existing statutory duties, please see Monitor's publication *Your statutory duties: A reference guide for NHS foundation trust governors*.

The Health and Social Care Act 2012 (the Act) changes some aspects of the role of governors, as listed below. The timing of the introduction of the additional responsibilities will become clear over the coming months. Please watch Monitor's website for further details.

New name

The Act changes the official name of the 'board of governors' to the 'council of governors'.

New general duties

- The Act confirms that the council of governors has a duty to hold the non-executive directors, individually and collectively, to account for the performance of the board of directors.
- It also has the duty to represent the interests of the members of the trust as a whole and the interests of the public.

Additional rights and powers

- The council of governors may require one or more of the directors to attend a governors' meeting for the purpose of obtaining information about the trust's performance of its functions or the directors' performance of their duties (and for deciding whether to propose a vote on the trust's or directors' performance).

- ‘Significant transactions’ must be approved by the governors. Approval means that at least half of the governors voting agree with the transaction. The trust may choose to include a description of ‘significant transactions’ in the trust’s constitution.
- The council of governors must approve an application by the trust to enter into a merger, acquisition, separation or dissolution. In this case, approval means at least half of all governors agree with the application.
- Governors must decide whether the trust’s private patient work would significantly interfere with the trust’s principal purpose, i.e. the provision of goods and services for the health service in England or the performance of its other functions.
- The council of governors must approve any proposed increases in private patient income of 5% or more in any financial year. Approval means at least half of the governors voting agree with the increase.
- Amendments to the trust’s constitution must be approved by the council of governors. Approval means at least half of the governors voting agree with the amendments. Amendments will no longer need to be submitted to Monitor for approval.

Additional responsibilities for the trust

- Before each board meeting, the board of directors must send a copy of the agenda to the council of governors.
- After the meeting, the board of directors must send a copy of the minutes to the council of governors.
- The trust must take steps to ensure that governors have the skills and knowledge they require to undertake their role.

Primary Care Trust governor

- There is no longer a requirement for a PCT governor. The trust may, but is not required to, replace the PCT governor with a governor from another commissioning body.

Panel for advising governors

- Monitor has the power to establish a panel of persons to which a governor can refer questions as to whether the trust has failed or is failing to act in accordance with its constitution.
- The council of governors must first approve the referral. Approval means at least half of the governors voting agree with the referral.

Role of members

- The trust must hold annual members’ meetings. At least one of the directors must present the trust’s annual report and accounts to the members at this meeting.
- The trust may combine the annual members’ meeting with the governors’ meeting which is held for the purpose of considering the trust’s annual accounts and reports.
- Where there has been an amendment to the constitution which relates to the powers, duties or roles of the council of governors, at least one governor must attend the next annual members meeting and present the amendment to the members. Members have the right to vote on and veto these types of constitutional amendments.

For more details on any of these points, please refer to the [Health and Social Care Act 2012](#) or to the Trust Secretary.

Further non-statutory duties for governors, as currently specified in Monitor's *Code of Governance* include:

- to act in the best interests of the trust and adhere to its values and code of conduct;
- to hold the board of directors collectively to account for the performance of the trust, including ensuring the board of directors acts so that the trust does not breach the terms of its authorisation; and
- to regularly feed back information about the trust, its vision and its performance to the constituencies and stakeholder organisations that either elected or appointed them.

The *Code of Governance* will be updated in 2013 to reflect relevant changes in the Act, including the duty for governors to hold the board of directors to account via the non-executive directors specifically.

Sometimes the FT's own constitution will also specify additional roles for governors, such as "strategic guardianship".

An essential question for FTs is therefore how to develop successful interaction between directors and governors so that governors are able to perform their statutory duties effectively whilst legitimately holding the board of directors to account. This has been achieved to great effect in some trusts, although the model usually takes time to put into place.

About this guide

Monitor, working in conjunction with PA Consulting, conducted a research project to identify the key factors for establishing strong director-governor interaction within FTs. The findings are encapsulated in this best practice guide, which is aimed at existing FTs and aspirant foundation trusts.

Please note that it is not obligatory to adopt the approaches mentioned in this guide. These are simply ideas of best practice from FTs who are rated by peers and other stakeholder groups as being strong in the area of director-governor interaction.

The research involved interviewing the chair, CEO or senior independent director (SID), trust secretary and lead or other governor at 11 FTs. Areas of best practice were identified and are grouped in this guide for easy reference as follows:

- 1: building strong relationships;
- 2: shaping the optimal culture and mind-set;
- 3: defining processes and structures that work best;
- 4: supporting the delivery of statutory duties;
- 5: developing the governors as individuals and as a group;
- 6: the future role of governors; and
- 7: key advice to aspirant foundation trusts.

The format of sections 1 to 5 is as follows:

- an introduction to each topic;
- challenges typically faced by FTs in this area;
- 'considerations' to bear in mind when approaching these challenges;
- examples of good practice introduced by experienced FTs to address each challenge; and
- in some cases, 'take cares' to highlight things that FTs and aspirant trusts should take care to avoid.

Section 6 discusses changes to the role of governors following changes in the Act, while section 7 contains advice for aspirant FTs who are setting up new governance arrangements.

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- The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust
- Royal Devon and Exeter NHS Foundation Trust
- Sheffield Teaching Hospitals NHS Foundation Trust
- South Western Ambulance Services NHS Foundation Trust
- Taunton and Somerset NHS Foundation Trust

Contents

| | |
|---|-----------|
| Director-governor interaction in NHS foundation trusts: a best practice guide | 3 |
| The role of governors in NHS foundation trusts | 3 |
| 1 Building strong relationships | 9 |
| 1.1 Role clarification | 9 |
| 1.2 Chair – interaction with governors | 10 |
| 1.3 Chief executive officer (CEO) and other executive directors (EDs) – interaction with governors | 12 |
| 1.4 Non-executive directors (NEDs) including the senior independent director (SID) – interaction with governors | 13 |
| 1.5 Trust secretary | 14 |
| 1.6 Governor recruitment – role of directors | 15 |
| 1.7 Lead governor role and interaction with directors | 15 |
| 1.8 Patient/carer/service user governors | 17 |
| 1.9 Staff governors | 18 |
| 1.10 Appointed governors | 20 |
| 2 Shaping the optimal culture and mind-set | 21 |
| 2.1 Mind-set | 21 |
| 2.2 Attendance at council of governor meetings | 23 |
| 2.3 Impact of governors | 24 |
| 3 Defining effective processes and structures | 26 |
| 3.1 Council of governor meetings | 26 |
| 3.2 Joint meetings between directors and governors | 28 |
| 3.3 Subgroups | 30 |
| 3.4 Meeting organisation | 32 |
| 4 Supporting the delivery of statutory duties | 33 |
| 4.1 Annual planning | 33 |
| 4.2 Appointment of the chair and NEDs | 34 |
| 4.3 Approval of appointment of the CEO | 35 |
| 4.4 Appointment of the auditor | 35 |
| 4.5 Setting the remuneration of the chair and NEDs | 35 |
| 4.6 Holding the board of directors to account | 36 |

| | | |
|----------|--|-----------|
| 4.7 | Communication with members | 37 |
| 5 | Developing as individuals and as a group | 39 |
| 5.1 | Training | 39 |
| 5.2 | Governor appraisal | 40 |
| 6 | The future role of governors | 41 |
| 6.1 | Issues raised | 41 |
| 7 | Key advice for aspirant foundation trusts | 43 |

1 Building strong relationships

The research findings clearly demonstrate that the governors able to have the greatest impact are those who best understand the organisation they represent and its members. Whilst a structured induction can help to establish a baseline of knowledge, frequent and meaningful interaction with the directors and other key people is critical if governors are to sustain a broad understanding of the issues faced by the trust and how they are being addressed.

Key people with whom the governors should have regular contact are the chair, trust secretary and/or membership manager, senior independent director (SID), executive directors (EDs) and non-executive directors (NEDs) and the FT members whom the governors represent.

1.1 Role clarification

The foundation for effective relationship-building between directors and governors is a clear understanding by both groups of the responsibilities and boundaries of their respective roles.

Integral to this are the statutory duties of each group and a clear view from the trust on how it wishes to engage with governors and support them in carrying out these duties. This view may be developed internally, although some FTs have found it helpful to invest in external support to help define internal roles and processes.

Role clarification is a continuous process that needs to begin at the pre-election stage for each governor seat, be developed during the election and induction processes and be reinforced appropriately thereafter through ongoing training and interaction with the FT and its directors.

| Challenges | Considerations | Examples of good practice |
|---|--|---|
| <p>Some governors, particularly staff and appointed governors, are unclear about the purpose and extent of their roles.</p> <p>(Staff and appointed governor roles are discussed in greater detail in sections 1.9 and 1.10)</p> <p>Some trusts feel that governors can misinterpret the governor role, perceiving it to be the same as the NED role.</p> | <ul style="list-style-type: none"> The roles of the governor, chair, other NEDs and EDs, and the differences between the roles, should be clarified as an essential part of the governor election process, governors' induction and ongoing training. FTs should also confirm the expected time commitment from governors before they stand for election, so people know what they are signing up for. Details about the role should be provided to pre-election governor candidates and then reinforced again after appointment as part of the trust induction process, preferably in writing so governors can refer back to it. Ongoing refresher training for all governors could include | <ul style="list-style-type: none"> Pre-election, many trusts clarify the governor role in newsletters, websites and adverts asking for new governor candidates. Some offer 'being a governor' booklets or 'governor surgery' sessions, where prospective governors can talk to directors and existing governors and hear what the role entails. It can be particularly helpful to involve directors in these sessions, as it demonstrates that the governor role is valued by the trust. Other trusts have specific governor and member websites where the governor role is set out. After election, many trusts offer one-to-one meetings between the chair and/or trust secretary and each newly appointed governor to confirm the requirements of the role. |

| Challenges | Considerations | Examples of good practice |
|--|---|--|
| | <ul style="list-style-type: none"> revisiting information about, and clarification of, the different roles. | <ul style="list-style-type: none"> Some trusts have job descriptions, a code of conduct or memo of understanding to which governors sign up, indicating that they understand the requirements and boundaries of the role. Some trusts ask third parties to review these documents on a regular basis. One trust provides governors with a list of 'must-dos' and a separate list of more discretionary areas. One trust has circulated a 'how we work' paper, setting out committees and processes, which is refined over time. |
| <p>When a large proportion of governors stand down at the same time, it can be difficult for the council to maintain continuity and understanding of the role.</p> | <ul style="list-style-type: none"> The lengths of governor terms of office can be varied so that elections are staggered and new governors appointed at different times. | <ul style="list-style-type: none"> Some trusts vary the initial governor terms between one, two and three years. |

1.2 Chair – interaction with governors

The role of the chair with the governors is absolutely critical. In trusts where the model works well, the chair typically puts a significant amount of time into developing the relationship with his or her governors and ensuring that the information flow to and from governors is effective. Some chairs say that this area takes as much as 50% of their time in their dual role as chair of the board of directors and chair of the council of governors.

One trust secretary estimated that 60% of the effectiveness of the director-governor relationship is determined by the personality and mind-set of the chair and 40% by the processes which the trust has put in place.

A number of chairs stated that 'openness' and 'transparency' were of the utmost importance when working with the governors.

| Challenges | Considerations | Examples of good practice |
|--|---|---|
| <ul style="list-style-type: none"> Chairs need to engage effectively with the council of governors so that they are comfortable working together and each party can achieve the purposes of their respective roles. | <ul style="list-style-type: none"> The chair has the most formal contact with governors and should supplement this with informal contact where possible. Chairs can foster engagement through an open-door policy, which encourages governors to drop-in/call/email as frequently as they wish if they have issues to raise. Chairs might also meet governors, or a subset of governors, in scheduled meetings outside of formal governor meetings, to answer questions or confirm decisions taken by the board of directors, especially | <ul style="list-style-type: none"> One chair has a 'no-surprises' agreement with the governors, granting them the freedom to call or drop in on the chair and directors at any time on the understanding that they use this time to ask questions and share any concerns in private prior to raising them in a public forum. Some chairs schedule informal meetings with their lead governor in between formal council meetings. One model is for the chair to meet the lead governor shortly after the formal council meeting to confirm actions from the meeting and clarify how best |

| Challenges | Considerations | Examples of good practice |
|------------|---|--|
| | <p>where director meetings have been held in private.</p> <ul style="list-style-type: none"> • It is important for chairs to show governors that they are respected and that their work is valued. | <p>to complete them. The chair and lead governor then meet again midway between council meetings to update on progress, enabling the chair to intervene and offer support if there are any challenges or blockages and to discuss the agenda for the next meeting.</p> <ul style="list-style-type: none"> • A number of chairs schedule one-to-one meetings with each new governor to give the new governors the opportunity to clarify their expectations and express their key interests. • The chairs of many trusts convey the message that governors are respected and valued by ensuring that as many directors as possible attend council of governor meetings. |

TAKE CARE

- Chairs should avoid creating any kind of "inner sanctum" and should try to involve all governors as much as possible.
-

1.3 Chief executive officer (CEO) and other executive directors (EDs) – interaction with governors

In high-performing organisations the CEO and EDs take an active involvement in the business of the governors and commit time and effort to developing an effective relationship with them. The EDs are the senior management of the organisation and are responsible for running the trust. Having access to them at appropriate times is therefore necessary to enable governors to ask questions and have influence.

| Challenges | Considerations | Examples of good practice |
|--|---|---|
| <ul style="list-style-type: none"> Some CEOs and EDs find it difficult to develop a meaningful relationship with the governors due to insufficient face-to-face time. Some CEOs and EDs do not believe themselves to be accountable to the governors, so do not feel they need to interact with them directly. | <ul style="list-style-type: none"> Opportunities for contact between the CEO/EDs and governors can take place formally at council of governor meetings and other joint meetings and through more informal methods. Joint meetings of the board of directors and council of governors are extremely helpful, particularly at trusts where board of director meetings have been held in private. It is less common for the EDs to attend all council meetings as they are more likely to be involved in the work of specific subcommittees. However, directors and governors have said it is helpful to have the opportunity to invite the EDs to the council as and when their input is required. Where necessary, the chair should remind the CEO and EDs that the governors have the right to summon them to a meeting, even though the governors are officially tasked with holding the board to account via the non-executive directors. | <ul style="list-style-type: none"> In many trusts the CEO attends all council meetings, typically to give a performance report and take part in a Q&A session. The EDs usually attend some meetings, often to present their particular areas of work. One trust CEO briefs the council of governors at a bi-monthly, one- to two-hour session and also attends all subgroup and committee meetings as needed. The same CEO attends a bi-monthly walkabout session with a different governor each time, involving visits to wards to further learning. At the trusts interviewed, formal joint meetings between the council of governors and board of directors were held at least twice yearly and these were often supplemented by frequent informal communication and subcommittee meetings in between. |

TAKE CARE

- EDs may not be directly accountable to the council of governors, however, they are accountable to the NEDs who are in turn accountable to the governors. The council must also approve the appointment of the CEO and, under the Act, have the right to summon executive directors to a meeting, so executive directors should also seek to establish and maintain a productive working relationship with governors.

1.4 Non-executive directors (NEDs) including the senior independent director (SID) – interaction with governors

In addition to the role played by the chair, the SID and other NEDs play a key role in interacting with the governors.

NEDs do not undertake executive responsibilities for the FT but sit on the board of directors to bring external expertise that allows them to challenge and scrutinise the decisions of the EDs. The governors' role, as stated in the Act, is specifically to hold the NEDs individually and collectively to account for the performance of the board of directors and to represent the interests of the members of the FT within this.

Generally the SID is appointed by the board of directors in consultation with the council of governors and acts as a point of contact should discussion through the normal channel – i.e. via the chair – prove to be unsuccessful or inappropriate in a particular instance. Should the appointed SID also be unavailable it would be appropriate for governors to discuss the issue with another of the NEDs. As is the case for the chair, a SID who is open and readily accessible to the council of governors is likely to benefit most from the insights that governors can offer.

| Challenges | Considerations | Examples of good practice |
|---|---|--|
| <ul style="list-style-type: none"> Governors have a responsibility to appoint and appraise the NEDs and to determine their remuneration and allowances. The NEDs also have a role to play in supporting the governors should governors feel there are issues that they cannot discuss with the chair. It is therefore in the interests of both groups to maintain regular interaction and keep the other well informed of their intentions and activities. A frequent complaint by governors is that they don't see enough of the NEDs in action to assess their performance. This is especially the case in trusts where board of director meetings have been held in private and where NEDs do not regularly attend council of governor meetings. | <ul style="list-style-type: none"> The participation of NEDs in council of governor meetings, subcommittees and other meetings and events enables the governors to see the NEDs in action. | <ul style="list-style-type: none"> In one trust the job description for NEDs includes attendance at all council of governor meetings. In another, it includes attendance at at least two council of governor meetings per annum. NEDs at another trust attend council of governor meetings on a rotating basis and give a presentation on their respective portfolios of responsibilities so governors understand what they are involved in. Given that NEDs are busy and commit limited days to the work of the trust, this is a practical way for governors to meet all the NEDs over time. One trust holds quarterly meetings between the governors and NEDs without the EDs being present, so the group can discuss strategic issues. In many trusts NEDs and governors also work together on governor subcommittees or working groups, which allows governors to become familiar with the NEDs and their work, and also to understand the trust decision making processes. One trust holds quarterly away days for the board of directors and invites a handful of governors to attend on each occasion. This gives directors a chance to get to |

| Challenges | Considerations | Examples of good practice |
|------------|----------------|---|
| | | <p>know a few governors at a time rather than meeting en masse.</p> <ul style="list-style-type: none"> The SID is typically involved mainly to chair council meetings if the chair is absent, and to work with the governors when assessing the performance of the chair and setting the chair's remuneration. |

TAKE CARE

- Although the board of directors should act as a unitary board, the Act asks governors specifically to hold the NEDs to account for the performance of the trust, so it is critical to ensure sufficient working time between these two groups.

1.5 Trust secretary

The trust secretary is another critical point of contact for governors and it is his or her role to ensure appropriate information flows between directors and governors on a timely basis. The trust secretary, or a member of his/her team, will coordinate the scheduling of council of governor meetings and timely distribution of agendas and minutes. He or she should also be available to provide administrative support to help the governors perform their duties.

Trust secretaries typically commit around 30% of their time to governor-related duties and usually have a significant amount of support from a PA and/or membership manager to assist with this. Trusts and governors alike agree that the trust secretary undertaking his or her role with interest and enthusiasm is integral to the success of the governor role.

| Challenges | Considerations | Examples of good practice |
|---|--|--|
| <ul style="list-style-type: none"> There is a critical role to play in acting as the first point of contact with governors and organising meetings and all communications between directors and governors. | <ul style="list-style-type: none"> The trust secretary (or in some cases membership manager) should be the first point of contact for governors. He or she can liaise with directors in order to answer questions from the governors and set up meetings where necessary. | <ul style="list-style-type: none"> In some trusts the trust secretary attends governor forums and subgroups in addition to the main council meetings in order to capture potential agenda items for council meetings, take minutes and record action points. Governors greatly value receiving meeting agendas and minutes on a timely basis. Many trust secretaries aim to ensure meeting minutes are sent out within two weeks of council meetings. The trust secretary/membership manager should also send out a meeting planner for the year ahead so all know when the various meetings are scheduled. |
| <ul style="list-style-type: none"> FTs need to decide how best to organise governor training and the | <ul style="list-style-type: none"> The trust secretary and/or membership manager should create and update an induction pack for new governors, with | <ul style="list-style-type: none"> This task is managed by the trust secretary in most trusts, and materials are tailored to the governors' levels of understanding |

| Challenges | Considerations | Examples of good practice |
|---|------------------------------------|---|
| production of induction and other training materials. | input from the relevant directors. | and time available for the training. <ul style="list-style-type: none"> • Induction usually includes details about the trust, profiles of the directors, a job description for the governors and information on the meetings and structures in place. It may also include information on the NHS and wider structures. |

TAKE CARE

- The trust secretary usually works for the chair, so the chair should recognise the importance of the trust secretary's role with the governors and ensure that he or she has sufficient time or staff resource to devote to this area.

1.6 Governor recruitment – role of directors

It is essential for trusts to continue to generate enthusiasm amongst members for standing in governor elections. Governing councils need to be complete and refreshed with new governors on an ongoing basis to ensure the task of holding the board of directors to account is undertaken with the appropriate level of challenge.

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| <ul style="list-style-type: none"> • Previous research has concluded that it may become more difficult over time for trusts to encourage sufficient numbers of people to stand for governor elections, with the numbers of candidates per seat typically falling after authorisation, especially in staff governor constituencies. • The proportion of uncontested elections in FTs overall has also risen considerably since the inception of the FT model in 2004. | <ul style="list-style-type: none"> • Directors should consider taking an active involvement in the recruitment process. It is important that they at least have oversight of the governor job description and any advertisements so that they, in addition to the governors, are satisfied with what is being asked for. • The involvement of directors in recruitment also helps to demonstrate to potential candidates that directors take the governor role seriously and value its contribution. | <ul style="list-style-type: none"> • In most trusts the trust secretary initially drafts a governor job description, often working together with the governors. Directors usually give input into this process as well. • During the recruitment process most trusts find it beneficial to hold open sessions where potential candidates can meet the directors and current governors. This indicates the trust's commitment to the governors and gives directors an opportunity to be clear with candidates about what falls within and outside the governor role. • Some trusts also choose to put out adverts identifying any particular skills that are needed, in order to encourage candidates with that skill set to apply. |

1.7 Lead governor role and interaction with directors

The lead governor role was originally intended by Monitor only to be a point of contact between Monitor and the trust in exceptional circumstances where Monitor might need to contact the governors directly, or vice versa. This was expected to be in the case of a

potential breach of the Terms of Authorisation, an unresolvable issue with the chair or improper conduct of the trust election process.

| Challenges | Considerations | Examples of good practice |
|--|---|--|
| <ul style="list-style-type: none"> • Many FTs have gone on to broaden the lead governor role and to instil this with a range of wider responsibilities. This presents its own set of challenges as the role is not defined other than by individual trusts and confusion can arise. • For information, we therefore detail examples of the lead governor roles which are being carried out, but from Monitor's perspective there is no compulsion for trusts to adopt any of these approaches and Monitor does not endorse any particular model. | <ul style="list-style-type: none"> • The lead governor is most likely to play a role where the chair cannot be directly involved, such as in the performance appraisal of the chair and setting the chair's remuneration, in which cases the lead governor is most likely to work closely with the deputy chair or SID. • The lead governor often also becomes a communicator between the chair and other directors, and the wider council. For example, the chair often meets the lead governor in separate sessions outside of the main council meetings to discuss issues, training and meeting agendas or to report back decisions from previously private board meetings. • Where trusts choose to expand the role of the lead governor, the council of governors should discuss what they would like the role to include in order to create a definition of the role. The council should be allowed time to draw up this role description and it is important that the chair supports this process but neither the chair nor other directors should become involved in the appointment. The governors alone should vote or otherwise agree on who they wish to become the lead governor. | <ul style="list-style-type: none"> • The lead governor at one trust gives a presentation at the Annual Members' Meeting and/or Annual General Meeting, oversees the governor training programme, attends governor induction sessions with the chair and attends a private weekly briefing by the chair on key issues for wider dissemination to the other governors. • The lead governor at another trust runs a private session just for governors before the formal council meeting to raise key issues for discussion. • One trust sees the lead governor role as a point of contact between the chair and the governors but also as a pastoral role, particularly for new governors. • One trust regards the role as essential in pulling together the "feeling" of the full council. • Some trusts have chosen not to have one lead governor but rather to have chairs of different working groups, and a lead governor in name only as the point of contact with Monitor. |

TAKE CARE

- The board of directors should not be involved in selecting the lead governor. The individual should be chosen by the council of governors, either by consensus or by formal vote.
 - The lead governor should not deputise for the deputy chair of the board of directors.
-

1.8 Patient/carer/service user governors

Specific constituencies for these groups are optional and some trusts have chosen not to have them as they feel the groups are already well represented within public governor constituencies. When considering whether or not to have specific constituencies, it is important that trusts reflect upon the role patient, carer and service user governors could play. The trust should think about whether there are any specific aspects of the work of the council where their experience would be particularly useful and where it would be important to guarantee that a patient, carer or service user governor were in post.

| Challenges | Considerations | Examples of good practice |
|--|--|--|
| <ul style="list-style-type: none"> • Patient, carer and service user governors often have very valid points to make and can give great insight into the patient or service user experience at an FT. However in some cases they may have more difficulty interacting with other governors and with directors or may have difficulty attending meetings due to illness | <ul style="list-style-type: none"> • Establish whether additional training or guidance would be helpful for patient, carer and service user governors. • Are any special arrangements needed, such as transport to council meetings or ways to communicate ideas other than in a public forum? • Consider how best to use their insight and skills; this might include involving them in patient/service user experience or quality working groups. • Public governors in particular often find the insight from patient, carer and service user governors extremely helpful, so chairs should seek to ensure different governors get a chance to speak to each other. | <ul style="list-style-type: none"> • One trust conducts a skills audit for all governors to identify areas where additional training or support is needed to help them fulfil their roles. • One trust has an 'issues log' in which governors may raise potential issues or ideas. This may be an easier way for patient or service user governors in particular to raise points than in a full meeting of the council of governors. • One chair ensures that service user governors are seated on tables with other public governors, staff governors and directors at council meetings so their views can be included within discussion. • One chair interviewed is firmly of the belief that her service user governors are where the real value of governors lies for her trust. |

TAKE CARE

- Be careful to ensure that the views of patient, carer or service user governors are not missed because mechanisms for their effective communication are not in place.
-

1.9 Staff governors

Often FTs find it difficult to define, and recruit to, the staff governor role. As with all governor roles, no definition of the staff governor role is given in legislation so trusts interpret the role in different ways.

One way to distinguish between staff representatives and staff governors is that governors should be looking at the FT from the staff member perspective and assessing the board of directors' performance accordingly.

It is also worth remembering that public governors often find the views of staff governors extremely helpful in their understanding of how the organisation works.

| Challenges | Considerations | Examples of good practice |
|---|--|---|
| <ul style="list-style-type: none"> • Staff governors sometimes find it difficult to understand the purpose of their role. • Staff governors may misunderstand the role and seek to use it as an additional channel for matters which should be reserved for unions and other representative bodies. | <ul style="list-style-type: none"> • The purpose of the staff governor role is no different to the role of public or appointed governors. It is to hold the board of directors to account for the performance of the trust and to represent the interests of the (staff) members who appointed them and of the public. It is the opportunity for staff to influence the strategic direction of the trust on behalf of these members. • Directors may contribute to the understanding of the staff governor role and arising issues by taking time to meet staff governors separately and away from full council meetings. • As for all governors, induction training should include a clear understanding of what the staff governor role does and doesn't involve. It can be helpful for the chair to take additional time with staff governors to go through any uncertainties around this. | <ul style="list-style-type: none"> • At one trust, the CEO asked staff side representatives to detail what they wanted the staff governor role to include. Staff governors also speak at road-shows to staff so staff know who they are and what the role involves. • One trust chair describes the staff governor role as giving the 'helicopter view' and 'more strategic role' than staff representatives. |
| <ul style="list-style-type: none"> • Staff governors may find it difficult to voice their views freely, fearing their managers may not approve. | <ul style="list-style-type: none"> • The chair might assist by arranging opportunities for staff governors to give their views in a supportive environment. | <ul style="list-style-type: none"> • One chair meets staff governors as a group every other month to go through any key issues they would like to raise. She also regards this as a helpful staff 'temperature check'. The chair will then take forward important issues to raise at board meetings. • At one trust, the chair, HR director and trust secretary meet staff governors between full council meetings. The same trust offers one-to-one meetings between |

| Challenges | Considerations | Examples of good practice |
|---|---|--|
| | | <p>potential staff governor candidates and the trust secretary to go through the scope of the role.</p> <ul style="list-style-type: none"> • One trust has a staff governor suggestion scheme, in which staff governors support and put forward any strong ideas from members of staff. • One trust includes a staff governor on all working groups in order to include a staff view on all matters. • Another trust wanted staff governors to give input by way of new ideas, and has found this works best through membership of relevant subcommittees. |
| <ul style="list-style-type: none"> • Staff governors may find it difficult to take time away from their day jobs to carry out the responsibilities of the role, especially if they perceive their manager as not being supportive of this. | <ul style="list-style-type: none"> • The chair might assist by arranging schemes where staff governors are able to take a certain amount of time out from their day jobs without their departments being penalised. | <ul style="list-style-type: none"> • One trust offers 20 hours per month that can be backfilled for staff governor duties where relevant, although to date no department has taken this up. |
| <ul style="list-style-type: none"> • It may prove difficult for trusts to attract sufficient staff governor candidates, especially from junior staff who may perceive that the role is reserved for more senior staff members. | <ul style="list-style-type: none"> • Directors might assist staff governor recruitment by ensuring that staff elections are well publicised, and that the role of staff governors and their achievements are widely highlighted to staff members, as well as by speaking about the staff governor role so it is seen to be valued. | <ul style="list-style-type: none"> • One trust has a weekly e-bulletin to staff which includes information about who is standing as a staff governor. This is also communicated via an information area on every payslip. • One trust has a separate web page for staff governors so directors can communicate easily with them and members can see the activities they have been undertaking. • Another trust holds constituency-specific staff governor meetings and their staff governors carry business cards with their role. The chair also conducts exit interviews with all staff governors in order to learn what might be done better for future staff governors. |

TAKE CARE

- The staff governor has the same statutory responsibilities as public and appointed governors, but may experience additional challenges in trying to carry out their role. Directors should not dismiss these difficulties and should use their positions to support staff governors so they are able to carry out the role effectively.
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1.10 Appointed governors

Like the staff governor role, there is no formal definition of the role of the appointed governor, so it can be difficult for appointed governors to understand. Again, it is imperative for trusts to clarify the role and what is being asked of appointed governors on their appointment.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> Appointed governors frequently do not attend meetings or provide other input. It can be difficult to find individuals who are able and willing to attend and contribute consistently. | <ul style="list-style-type: none"> When setting up its initial constitution, the trust should think carefully about the organisations from which it wishes to have appointed governors. The chair should also make it clear to organisations invited to appoint a governor what the role involves and what will be expected of the appointed individual. Trusts may consider changing their constitutions if the numbers of appointed governors, or the represented organisations, become inappropriate. | <ul style="list-style-type: none"> At one trust the chair writes to organisations with appointed governors asking for an explanation for any non-attendance. At another, the lead governor is an appointed governor, demonstrating that some are willing to become involved, and indeed might offer more when taking on specific responsibilities such as lead governor or membership of subcommittees. |
| <ul style="list-style-type: none"> It can be difficult to know what level of seniority will work best in the role. | <ul style="list-style-type: none"> The chair should ask the organisation to appoint the most appropriate individual for the role, ensuring that the organisation understands what will be involved. | <ul style="list-style-type: none"> One trust believes that the value of an appointed governor is someone who does not already have a relationship with the trust, but who can potentially make a difference. The trust believes it is better not to appoint somebody too senior, as they find more senior people may not have the time to give. |
| <ul style="list-style-type: none"> Appointed governors may sometimes experience a conflict of interest between their duties to their primary organisation and duties as an FT governor. | <ul style="list-style-type: none"> This is something trusts find difficult to resolve. Appointed governors should be asked to declare an interest in discussing matters such as contracts or significant transactions. | <ul style="list-style-type: none"> In some trusts, appointed governors voluntarily leave the meeting if an issue involving a conflict of interest is being discussed. |

2 Shaping the optimal culture and mind-set

2.1 Mind-set

Developing the right mind-set within the trust is essential for the governor model to work successfully. This requires planning and the willingness of directors to commit time and effort to training and supporting the governors, and also to demonstrating that they value governors’ contribution to the trust. The chair is integral to developing a constructive mind-set, but the whole team of directors impacts on this. Once an effective culture has been established, this is likely to be self-regulating as people buy into the attitude and way of working.

At the core of creating the optimal culture and mind-set is professionalism. Organisations with governors operating effectively repeatedly gave answers exhibiting the professional approach they had taken to recruiting, training and working with their governors. Those interviewed agreed that the time and effort was worthwhile because the resulting returns from the model were so much greater.

| Challenges | Considerations | What do other trusts say/do? |
|--|--|---|
| <ul style="list-style-type: none"> A message that came up repeatedly during the research is that FTs with successful governance arrangements value their governors. The challenge lies in conveying this effectively and avoiding appearing only to pay lip service to the council. There is a danger that governors can otherwise feel they have only a superficial relationship with directors. | <ul style="list-style-type: none"> Give governors plenty of time at the beginning of the relationship to get to know directors and each other. Encourage an open culture wherein governors can email, call or meet with the chair to discuss issues. Involve governors early on in agreeing job specs so all know what they are there to do. Aim for joint working rather than "discussions". If something isn't working, ask the governors why and how to improve it. | <ul style="list-style-type: none"> "It's not a 'problem' having governors involved." "We're all in this together." "We have an integrated but independent approach." "They are as important as I am." (Chair) "It's like having a conscience." "We're all here to learn and to build the place." "The council of governors can be your best friend or your worst enemy. The board of directors needs to be facilitative and flexible in its approach to the governors." "Be very clear about roles and responsibilities. Mind-set is part of a broad accountability framework in which all are partners with a role and stake in the organisation." One trust chair asks governors how they want to "do business" and sets processes in place accordingly. |

| Challenges | Considerations | What do other trusts say/do? |
|--|--|---|
| <ul style="list-style-type: none"> It is critical to build trust in directors so governors are confident in them to do their job. | <ul style="list-style-type: none"> Consistency and open communication are vital for the development of an effective working relationship. Be transparent with governors and provide information or answers requested on a timely basis. Directors and governors should not work in a collusive way, but in a way that develops and supports the skills of governors and includes everyone, not just a few governors with certain skills. | <ul style="list-style-type: none"> In one trust the chair gives information on arising issues to the governors before his co-directors so governor thoughts can feed into the subsequent board discussion. One chair shows trust in the governors by providing all information they ask for. Should this trust be breached, he says he may decide to withdraw information, but he reports that "this has never happened so far". "Always have conversations in the room and not afterwards." |

TAKE CARE

- Trusts must ensure the relationship between directors and governors does not get so "chummy" that the governors are no longer able to hold the board of directors to account effectively.
 - It can be tempting for directors to hand-pick a few experienced governors to spend more time with and to offer this group greater responsibility. However, this is divisive and will make other governors feel their voices are not being heard. Trusts should remember that it is the council of governors as a whole which has statutory responsibilities and power, not individuals or subgroups of governors.
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2.2 Attendance at council of governor meetings

Attendance by governors at council meetings is essential to ensure that members are being appropriately represented. Where governors are engaged in the process and feel they are making a valuable contribution it is likely that they will want to attend. At the trusts interviewed, typically 70-90% of governors attend all council of governor meetings. However, there are inevitably times when some people do not attend; if this happens repeatedly it may need to be addressed.

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| <ul style="list-style-type: none"> Governors are part-time, unpaid volunteers and will have commitments beyond the FT. Meetings need to be well organised and well run with an open and communicative culture to ensure that governors feel their attendance is worthwhile. | <ul style="list-style-type: none"> If governors are repeatedly failing to attend meetings it is important to contact them to find out why. Schedule meetings as far in advance as possible to encourage good attendance. When planning meetings, take into account governors' other commitments. For example, it may be necessary to hold evening meetings or to vary the times of meetings so that governors with work or family commitments are not excluded. | <ul style="list-style-type: none"> Most trust constitutions set a minimum level of attendance and the chair or trust secretary will call or write to governors whose attendance falls below the minimum. Governors may also be asked to stand down for repeated non-attendance. Where a governor consistently misses meetings, one trust gives the other governors the chance to vote to decide whether or not to keep the absent governor. The chair at one trust writes to the absentee stating that if the governor does not contact the chair then he will assume the governor has stepped down. At another trust, if a governor misses two consecutive meetings he/she must write to the chair and CEO to explain why. Most trusts schedule meetings a year in advance to ensure governors receive adequate notice and can plan accordingly. One ambulance trust has decided to rotate the location of their meetings to give governors from all over the region a chance to attend. |

TAKE CARE

- Remember that governors may not find it easy to travel and that meeting time should be maximised to make the travel time worthwhile for them.
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2.3 Impact of governors

Governors undoubtedly have an impact simply by undertaking their statutory duties, but there is often a desire amongst the council itself and amongst directors to see a tangible benefit from the governors' work. However, many of the perceived benefits that governors bring are relatively intangible, which can make them difficult to measure.

Many trusts report that the governors' greatest impact is the shaping of the trust mind-set towards the needs and experiences of patients or service users and local people, rather than just towards the operating framework. Some trusts say that critical questioning from governors forces good preparation by the executive team, and others have clearly changed some of their approaches to measuring trust performance as a result of governor questioning.

| Challenges | Considerations | Examples of good practice |
|--|---|--|
| <ul style="list-style-type: none"> Having a visible impact can be difficult for governors to achieve without a clear idea of where their efforts should be focused. | <ul style="list-style-type: none"> It is important for directors and governors to agree areas of responsibility and be clear about their respective objectives. A number of trusts say governors have an impact as they "bring the trust and directors down to earth", "make us think" and "act as a voice over the shoulder or additional conscience". It is important that these messages are communicated clearly to the governors, via the chair, to make it clear to them that they are making a difference. | <ul style="list-style-type: none"> Some trusts hold informal meetings of the governors in advance of the formal council meetings to allow governors to discuss and interpret information as a group. The chair feels that this results in better discussion in council meetings and allows governors to structure their thoughts and have a greater impact. At one trust, governors have portfolios of responsibility and work with the director responsible for that area of the trust, e.g. the 'patient experience governor' works and attends meetings with the director of nursing and the 'finance governor' does the same with the director of finance. At several trusts governors contribute to questions in the patient survey and in one trust the governors conduct the survey themselves, meeting with and interviewing patients before feeding information back to the directors. One trust has a 'governors issues group' which helps to find out problems of which directors are often unaware. At another, the governors raised a need for greater marketing and awareness of the trust, and this is now being addressed. As part of the chair appraisal at one trust, one action point for the chair was to include more agenda items on quality and strategic |

| Challenges | Considerations | Examples of good practice |
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| | | <p>items and this is now being done.</p> <ul style="list-style-type: none"> • Governors at one trust have been involved in a project to reduce "Did Not Attends", with great success. • At another trust the directors now measure the rates of MMSA as well as C. difficile and MRSA, as governors questioned why they were not already doing so. |
| <ul style="list-style-type: none"> • Governors are often thought to have greater impact on quality than on strategy in general. | <ul style="list-style-type: none"> • Trusts need to find effective ways of incorporating governor and member views into ongoing strategic planning. • Governors may additionally play an increasing role going forwards in helping to promote the trust's services to commissioners and other external stakeholders. | <ul style="list-style-type: none"> • Most trusts involve governors in strategy and planning days, which may also include members. • In one trust governors were able to lend support to an initiative to rebuild an old surgical unit, which may have helped the case in obtaining funding from the strategic health authority. • In another trust governors are joining patient participation committees on new local clinical commissioning groups, moving towards the idea of a "Senate" of governors of the whole local health economy. |

WHAT TRUSTS SAY

- "Now there are three regulators - Monitor, the Care Quality Commission and the governors."
- "The attitude is; "What will the governors think about this?" It pushes items higher up the agenda."
- "Governors keep bringing you back to the patients and the patient experience."
- "The aim is to get directors to the mentality of "I really had to think there" when answering questions from governors."
- "Bringing the trust down to earth - making sure the patients/public are always in the room."
- "Bringing a staff perspective to debates."
- "Helping to choose priorities for quality reports."
- "Governors make us think. Whereas volunteers may come and go, the governors sustain."
- "The governors are a way of testing things out with a trusted dialogue and seeing the reaction."

3 Defining effective processes and structures

The composition of the council of governors is decided locally by the trust whilst ensuring that the balance of staff, public and appointed governors is maintained. Councils are required to complete their statutory duties each year; the way in which they organise themselves to do this is at the discretion of the trusts and councils themselves.

Much like the other elements of the role, a lack of professionalism can lead to an ineffective governing body. It is important that processes and structures are formalised to ensure consistency across the activities in which governors are involved. Robust processes are critical; governors may not be re-elected or may choose not to stand again and staff may move on, so processes are needed to support the governance model through any such changes.

3.1 Council of governor meetings

Council of governor meetings are typically held four times per year, although in some trusts the council meets as often as every six weeks. The attendance of board directors at council meetings varies, although chairs and chief executives almost always attend. Usually trusts also hold joint meetings of the board of directors and council of governors to allow for greater communication and discussion between the two groups.

| Challenges | Considerations | Examples of good practice |
|---|--|---|
| <ul style="list-style-type: none"> It can be difficult to maintain continuity when the council of governors meets only four times per year. | <ul style="list-style-type: none"> Meetings in between formal council meetings, such as joint meetings of the board of directors and council of governors and subcommittee meetings, can be helpful in maintaining continuity. In some trusts the governors themselves also set up subgroups and interim meetings for this purpose. | <ul style="list-style-type: none"> One trust has a separate governor steering group, to which governors elect eight public governors. This group meets monthly and receives performance reports on finance, quality and manpower from the CEO, which the group then disseminates back to the full council. |
| <ul style="list-style-type: none"> NEDs are often too busy with other trust matters to attend all the council of governor meetings, which may mean governors do not interact very much with the NEDs. | <ul style="list-style-type: none"> As well as the attendance of NEDs at council of governors meetings, joint meetings of the directors and governors or other meetings between governors and NEDs can help to build relationships. | <ul style="list-style-type: none"> At some trusts NEDs rotate attendance at the council of governors, whilst at others the NEDs' contracts specify a certain number of required attendances. One trust asks all NEDs and EDs to attend council meetings, which have become "very real meetings with lots of questions". |
| <ul style="list-style-type: none"> Governors may need additional time to meet, with or without the chair being present, as well as formal council meetings with the chair and other directors present. | <ul style="list-style-type: none"> Try to ensure that governors are supported in any additional meetings that they choose to hold amongst themselves. | <ul style="list-style-type: none"> In many trusts governors hold separate meetings in between or immediately before formal council meetings. The chair may or may not be invited to these sessions, which are often chaired by the lead governor. |

| Challenges | Considerations | Examples of good practice |
|---|--|---|
| | | <ul style="list-style-type: none"> One trust has a separate “Governors’ Forum”, composed of governors only, which meets monthly to discuss agenda items for the full council meetings. The wider council nominates governors to become members of this forum, and membership is rotated annually. |
| <ul style="list-style-type: none"> Meetings are not always held at a convenient time of day for all governors to attend. | <ul style="list-style-type: none"> Consider governors’ commitments and be flexible about meeting arrangements in order to enable governors to attend. | <ul style="list-style-type: none"> Some trusts vary the times of day at which governor meetings are held, or hold them in the evening to allow as many people to be able to attend as possible. At one trust council meetings start at 5pm with a briefing from the chair, followed by performance reporting from the CEO. The meeting is followed by supper and small, mixed group discussions. |
| <ul style="list-style-type: none"> Some governors may lack the confidence or knowledge to participate fully in meetings. | <ul style="list-style-type: none"> Think about innovative ways to encourage all governors to participate in meetings, for example setting out the room cabaret-style and seating governors at tables with EDs, NEDs and different types of governor, or giving governors voting devices to give their views. | <ul style="list-style-type: none"> One trust has moved to a more “workshop” style of council meeting, where governors and directors discuss issues in smaller groups together and report back to the full meeting afterwards. Different styles can work well. One chair reports in particular how helpful humour is at council meetings and how it is important not to become too formal. |
| <ul style="list-style-type: none"> The size of the council of governors can make it difficult for everyone to raise their views and questions, or sometimes to debate topics effectively and make decisions. | <ul style="list-style-type: none"> It is very important to consider the optimum council size carefully when first setting the constitution in place. | <ul style="list-style-type: none"> Many trust chairs believe that the most appropriate size of the council might be between 20 and 25 governors. Some trusts are reconsidering the most appropriate size for their councils. |
| <ul style="list-style-type: none"> Some trusts feel that governor meetings are not always productive. | <ul style="list-style-type: none"> Trusts might consider having action logs from governor meetings which are revisited at the next meeting to ensure agreed actions have been followed up by all parties. The trust secretary or membership manager typically attends all council meetings to take minutes and capture these action points. Sometimes a briefer agenda, with a rotating focus on a few key issues can be more productive than trying to cover many topics. | <ul style="list-style-type: none"> At one trust, governors have their own business plan and steering group to monitor their own progress. Another trust uses a “you said, we did” approach in reporting back to the council of governors. Most trusts have a range of subcommittees or working groups so that business can be split into more manageable areas, to which governors can contribute more specifically. |

| Challenges | Considerations | Examples of good practice |
|------------|--|---------------------------|
| | <ul style="list-style-type: none"> It is important to ensure governors have a general Q&A session so they can ask any questions. Some may have travelled a long way to attend the meeting, so it can be frustrating if there is no time to ask questions. | |

TAKE CARE

- It is the full council of governors which has statutory duties and power in statute. Take care that the trust does not promote some governors into "more important" roles than others or imply that some people's opinions are less worthwhile.
- It is the chair's responsibility to manage council of governor meetings so that they are productive for all concerned, and to ensure that a few individuals are not allowed to dominate. Change in constitution size should be a last resort only if it is agreed by all that there are too many governors to have effective meetings.

3.2 Joint meetings between directors and governors

Once legislation has been adopted, the Act will require board of director meetings to be held in public. This may help to address the concerns of some governors who felt they had insufficient opportunities to see NEDs in action because board of director meetings were held in private.

Despite this statutory change, joint meetings between directors and governors are expected to continue to be helpful as they are likely to continue to operate differently to main board meetings. Governors are also unlikely to have time to attend director board meetings on a regular basis.

| Anticipated challenges | Considerations | Examples of good practice |
|--|---|--|
| <ul style="list-style-type: none"> Governors may not feel they should participate in public director board meetings and are likely to need separate meetings with NEDs to discuss strategy in particular. | <ul style="list-style-type: none"> Try to ensure that governors and NEDs have sufficient time together to discuss strategy, with or without EDs being present. | <ul style="list-style-type: none"> Most trusts currently hold joint meetings between the board of directors and council of governors, which may be structured as 'strategy days', 'away days' or 'joint working groups'. These are typically held four or five times per year with attendance by a rotating subset of governors. Some trusts schedule meetings between governors and NEDs only, to allow these groups an opportunity to get to know each other and discuss the strategic approach. At one trust governors are buddied up with NEDs so they can get to know them and their work better. At another trust, NEDs take turns to present their portfolios of work to council meetings so governors have a chance to ask questions on each area. |

| Anticipated challenges | Considerations | Examples of good practice |
|---|--|---|
| <ul style="list-style-type: none"> It is unlikely that all governors will have time to attend board of director meetings on a regular basis. | <ul style="list-style-type: none"> Some councils might decide to arrange to rotate governors' attendance at board meetings. Currently most trusts send out a summary of the board's decisions to governors after board meetings, or in some cases the chair meets the lead governor to impart the key decisions and reasons behind these. It is likely that this will continue to be helpful. A summary may be more useful than the full board reports, but it is important to agree the level of detail with the governors. | <ul style="list-style-type: none"> At one trust there is currently a non-voting governor representative on the board of directors. The governor is nominated by the full council, with nominations rotated annually, and he/she can observe and speak at meetings, but may not vote. The governor then reports back on the matters discussed to the full council. At one trust, the three key points to come out of the current Part Two meeting (which is where directors currently meet in private separately to the main open board meeting) are sent out to all governors by email. The chair of another trust puts together two pages of A4 with the decisions and discussions from the Part Two meeting, but governors may ask for more information if they wish. Governors at one trust receive the full performance reports coming out of the Part Two meeting. |

TAKE CARE

- Directors should not identify a subset of governors to brief on decisions from board meetings. Any such group should only be chosen by the governors themselves.
 - Any decisions about which governors attend board of director meetings should be taken by councils themselves and not by directors.
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3.3 Subgroups

Most trusts have various subgroups or working committees to which different governors belong. These are not set out in legislation but trusts have found it an effective way to break down discussion and tasks into manageable units and to manage communication between the board of directors and the full council of governors. These governor working groups should be distinguished from formal committees of the board of directors, which must include the nominations committee, audit committee and remuneration committee. Governors will sit on the nominations committee when appointing a chair or other NEDs, but otherwise these three committees are committees of directors. Governors may of course be invited to attend in a non-voting capacity.

| Challenges | Considerations | Examples of good practice |
|---|---|--|
| <ul style="list-style-type: none"> The council of governors is likely to be a large body and is not always the most effective forum for debating issues in detail. | <ul style="list-style-type: none"> In most trusts, various subcommittees work to support the activities of the board of directors and council of governors. Subcommittees are most effective when they are sponsored and attended by members of the board of directors to ensure that they carry weight. It can be helpful for NEDs to chair the different subcommittees to increase working time between NEDs and governors. Governors themselves should decide who attends the different subcommittees. Governors will also often chair and organise these working groups, with the support of the trust secretary. Governors should not normally be allowed to be members of all subcommittees/working groups. Many trusts restrict membership to a maximum of two per governor. Many trusts also set up temporary working groups, set up to address specific projects or issues. | <ul style="list-style-type: none"> Examples of common subgroups in place include: <ul style="list-style-type: none"> – nominations committee; – quality and patient experience (often supported by the director of nursing); – planning (often supported by the director of strategy); – audit (often supported by the director of finance); – membership/communication (often supported by the communications team); and – remuneration and recruitment (often supported by the director of HR). More unusual subgroups include: <ul style="list-style-type: none"> – scrutiny committee/standards committee; – constitution committee; – social inclusion committee, psychological therapies committee, accessibility and awareness committee (mental health trusts); – quality assurance group; – Care Quality Commission group; – patient and public assurance group; – charitable funds group; – patient involvement committee; and – business management group. One trust has an additional "issues group" which is chaired by the SID and obtains feedback from 1,000 members on issues within the trust. All governors at another trust can |

| Challenges | Considerations | Examples of good practice |
|--|---|--|
| | | email the chair of the patient experience committee with "nice to know" items, which can be fed back to the board where relevant. |
| <ul style="list-style-type: none"> Deciding which subgroups to have and which governors should attend each subgroup requires consideration. | <ul style="list-style-type: none"> Subcommittees and working groups tend to fall into natural groupings based on their objectives: <ul style="list-style-type: none"> Groups operating to fulfil the statutory duties of the governors, such as the nominations committee, remuneration committee and audit committee. Groups focusing directly on developing the membership base and member involvement and engagement levels, such as the membership committee. Groups operating to improve specific aspects of the trust, such as safety, patient experience, quality and finance committees. | <ul style="list-style-type: none"> In many trusts governors give input into decisions about the type of subgroups that are needed, and often run these subgroups themselves with the help of the trust secretary. |

TAKE CARE

- Involve the governors in deciding which subgroups are most needed.
 - Ensure subgroups have a clear reporting structure and that their findings are communicated effectively and can be actioned as appropriate.
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3.4 Meeting organisation

Efficient meeting organisation is critical to ensuring that meetings are well attended and productive.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> • Good meeting organisation is vital to set the tone for the council and an example of professionalism for governors to follow. | <ul style="list-style-type: none"> • Ensure that agendas, papers and supporting information are circulated in good time in advance of meetings and that trust is shown by sharing relevant information between directors and governors. • Governors should have opportunities to input into the agenda for council meetings. Most trusts also facilitate the chairs of subgroups inputting into agendas. • The papers for meetings should be in an appropriate format for governors to best understand and make the most of the content. • A pre-meeting for governors to discuss and digest content may help to enrich the discussion during the main council meetings. • During the meeting it is essential that notes are taken, actions recorded appropriately and actions are followed up in future meetings. | <ul style="list-style-type: none"> • At one trust, the chair, CEO, trust secretary, lead governor and a second governor meet to plan the agenda for full council meetings, bringing forward ideas from the wider governing body. • The trust secretary at one trust sends out meeting papers two weeks in advance of every meeting and circulates minutes no later than three days after the meeting. • Another trust uses an issues log to record every action taken as a group and to follow up on any unclosed issues until resolved. This is useful not only to hold people to account but also to provide a track record of the impact that governors are having. |

TAKE CARE

- Some meeting agendas and minutes are not sent out far enough in advance, especially when sent by post. For governors who have email access, it may be sensible to agree whether to post or email these documents.
 - Take time to agree with the governors their preferred format for agendas and minutes in terms of length and style.
-

4 Supporting the delivery of statutory duties

Governors are responsible for a set of statutory duties which will be expanded by the Health and Social Care Act. It is important for governors to understand their statutory duties in the context within which they are carrying them out – i.e. that governors are there to represent the interests of members and of the public, particularly in relation to the strategic direction of the trust.

Governors should not seek to undertake operational management of their FT; the board of directors is responsible for this. The responsibility of the governors is to hold the board of directors to account, via the non-executive directors, for its performance in managing the trust’s operations.

4.1 Annual planning

The board of directors must take account of the views of the governors when devising the annual plan. Governors have a responsibility to represent the interests of members and the public in this process.

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| <ul style="list-style-type: none"> Gathering and articulating the views of governors and members to inform the annual planning process is where the challenge lies. | <ul style="list-style-type: none"> Gathering feedback from members should be a continuous process throughout the year. See section 4.7, Communication with members, for more details. | <ul style="list-style-type: none"> Most trusts have “strategy days” or “planning days” to discuss the annual plan and gather governor views. These are typically held annually, with a follow-up meeting six months on to assess performance against the plan. At one trust, the board of directors and council of governors hold focus groups for the members of the trust when preparing the annual plan. Members can vote on proposed initiatives using post-it notes on the walls. Another trust uses an away day with the board of directors and council of governors to devise the plan in partnership. At one trust the process involves a consultation with members in August, followed by presentation to governors of the proposed plan in September/October. At one trust the directors go to members and governors jointly to ask "what does good look like?" and then build the trust strategy accordingly. The trust also holds member days two to three times a year when members are given pretend money to select how they would spend this between different services, e.g. meal services, gown selection. |

4.2 Appointment of the chair and NEDs

One of the council of governors’ core statutory duties is to appoint the chair and NEDs of the trust. Trusts will have either one or two nominations or appointments committees for this purpose (some may have a separate committee for the appointment of EDs and NEDs respectively), which are chaired by the chair or an independent NED. The nominations committee for NEDs should make recommendations to the council of governors, and should itself consist of a majority of governors.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> Trusts need to establish processes for governors to appoint the chair and NEDs. | <ul style="list-style-type: none"> The correct approach is that the chair chairs the appointments committee to appoint NEDs and gives his/her opinion to governors on the committee, who then vote and make recommendations to the full council of governors. The SID will typically chair the appointments committee to appoint the chair; the process then works in the same way as for the appointment of NEDs. Governors should be involved in putting together the job descriptions for these roles. It may also be appropriate to undertake a skills audit to see what is most needed on the board. Governors involved in the appointment process should be provided with training either from within the trust or by a qualified third party. Independent chairs or NEDs from third party trusts can help organise the process and give an objective opinion during interviews, although they should not be allowed to vote. Governors might also consult other trusts on how their appointment process for the chair and NEDs is undertaken. | <ul style="list-style-type: none"> At one trust the council of governors shapes the nominations process, the role and job descriptions. Two governors are then nominated to be involved in the shortlisting and interviewing process and selecting a candidate to be approved by the full council. A number of trusts use third party recruitment organisations to assist in the process of identifying candidates. |

TAKE CARE

- The CEO should not be permitted to vote on appointing the chair to whom he or she will be accountable.
 - Attracting and securing the right people for these roles can be a lengthy process. Succession planning should be ongoing, with the process for replacing the chair initiated a full year in advance of the required start date.
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4.3 Approval of appointment of the CEO

Another core statutory duty for governors is to approve the appointment of the CEO.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> The governors must approve the appointment of the CEO and thus need to be kept informed of, and involved in, the process. | <ul style="list-style-type: none"> Governors should self-select a group of governors who will be involved in the process. This group should be given support in assessing candidates and feeding back appropriately. | <ul style="list-style-type: none"> At one trust, the nominated governors meet with the candidates and then feed back their thoughts to the chair. The final decision is made by the chair and the governors are asked to endorse this. |

4.4 Appointment of the auditor

A further core statutory duty for governors is the appointment of the auditor.

| Challenges | Considerations | Examples of good practice |
|---|--|---|
| <ul style="list-style-type: none"> Finding an auditor is an important role for the governors, but one that they may have little experience of. | <ul style="list-style-type: none"> Again, governors should self-select a group of governors who will be involved in the process and this group should be given support in how to assess potential auditors. This role is more suited to a subcommittee than to the full council. | <ul style="list-style-type: none"> At one trust, the director of finance and nominated governors draw up a list of potential auditors and present this to the full governing body for a decision to be made. |

4.5 Setting the remuneration of the chair and NEDs

The council of governors is responsible for setting the remuneration of the chair and NEDs. The council should consult external professional advisers to market-test remuneration levels at least once every three years, or when they intend to make a material change to the remuneration.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> Governors may not be aware of current levels of remuneration and may need help and advice in order to remain objective. | <ul style="list-style-type: none"> Typically, the chair will lead the process to appraise the NEDs, and the SID or vice chair will lead the process to appraise the chair. Both should ask for feedback from the governors as part of the process. Governors will often receive help either from the trust's own HR department or from a third party adviser to ensure they are well equipped to set appropriate remuneration levels. | <ul style="list-style-type: none"> One trust uses a proforma feedback questionnaire for governors to give feedback on the chair's performance and scores in different areas. The lead governor collates the feedback and sends it to the SID, who then sits down and discusses this with the chair. This performance feedback is then taken into account when setting the remuneration for the chair. Several trusts use outside recruitment companies to give benchmarks of chair and NED remuneration and take these into account along with performance assessment measures. |

TAKE CARE

- Governors should remember that the directors running FTs are undertaking roles of significant importance and responsibility. Governors should not expect chairs and NEDs to work for below market rates in return for this.

4.6 Holding the board of directors to account

The Act puts into statute the duty of the governors to hold the NEDs individually and collectively to account for the performance of the trust. Monitor's *Code of Governance* already states the duty for governors to hold the board of directors to account for the performance of the trust, including ensuring that the board of directors acts so that the trust does not breach the terms of its authorisation.

| Challenges | Considerations | Examples of good practice |
|---|---|---|
| <ul style="list-style-type: none"> • The term "holding the board of directors to account" is not defined in legislation or by Monitor's <i>Code of Governance</i> and can therefore be difficult to interpret. • The strength governors bring is through an objective process of independent challenge. The governors should not be simply "rubber-stamping" decisions made by the board. | <ul style="list-style-type: none"> • In order to hold the board to account, governors must have appropriate information and an understanding of the decisions being made by the board. They should also have access to the directors to allow for the challenge process on behalf of their members and the local population. In addition, governors need to have a consistent method of feeding back their views and the views of members to directors. • The trust secretary and chair should help governors to understand the decisions of the board and should facilitate time for governors to ask questions of EDs and NEDs. • The annual planning process is a key part of holding the board to account. Governors should receive feedback on whether goals from the prior year were achieved so that they can challenge accordingly. • Monitor's quarterly reports are also indicative to governors of whether the trust is meeting its terms of authorisation. • Q&A sessions at the Annual General Meeting and joint working days of the directors and governors present other opportunities for governors to question directors and give | <ul style="list-style-type: none"> • One CEO states the following as an appropriate definition: "to represent the local population holding to account the board of directors in decision making for the local population." • At one trust governors use subgroup meetings, attended by relevant directors, to understand and scrutinise the decisions made by the board. They then report back to the main council. • Another trust uses a Q&A session directly following the (public) board meeting for a group of governors to challenge the directors. • One trust has a column for director responses on all governor reports. Directors will also explain if something is not possible and why. • Each governor at another trust has a 'portfolio of responsibility', for which they meet the relevant directors and report back on answers to questions to the whole council. Example portfolios are 'patient experience', 'membership', 'finance' and 'governor development'. • At one trust the representative governor who attends board of director meetings takes questions from the whole council to the board of directors and reports back to the full council. |

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| | <p>input on forward planning.</p> <ul style="list-style-type: none"> Governors will also want to see if actions from previous council meetings have been followed up by the board of directors. | |
| <ul style="list-style-type: none"> Directors and governors must balance building a friendly working relationship, but one in which governors are still able to act as the "critical friend" and require answers to questions on director performance. | <ul style="list-style-type: none"> Challenge can become quite difficult if a large number of experienced governors leave at the same time. However, it is also important to refresh the council of governors regularly to ensure the relationship does not lose its questioning nature. For this reason two terms of three years should be the maximum term other than in exceptional circumstances. | <ul style="list-style-type: none"> Some trusts vary the initial governor terms between one, two and three years to maintain the council's capacity for critical challenge. |

TAKE CARE

- Most people want things to go well when working together, so take care that the relationship does not become too 'cosy', with governors not offering appropriate challenge.
- Mental health trusts report that the duty to hold the board of directors to account can be off-putting to many potential service user governors, so trusts need to ensure that service user governors are well supported by other governors or are able to give their thoughts in the way they find least daunting.
- As one CEO states, holding the board of directors to account is "not to develop groupies on behalf of the trust to 'save our hospital' but to provide challenge".

4.7 Communication with members

The Act also puts into statute the duty of governors to represent the interests of members of the trust as a whole and of the public. Monitor's *Code of Governance* already states that governors have a duty to feed back information about the trust to the members who appointed them.

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| <ul style="list-style-type: none"> Engaging all areas of the membership can be difficult, especially as trusts may not have permission to give member contact details to governors. | <ul style="list-style-type: none"> Trusts should consider asking members on signing up for permission for the trust or the trust's governors to contact them and asking members for their preferred method and contact details. Trusts should also consider assisting governors in this area as the FT is likely to have greater resources for | <ul style="list-style-type: none"> Most trusts have a membership committee or working group to help organise the approach to member communication. This is typically supported by the trust secretary or membership manager. Most trusts support governors in the role of communicating with members via some or all of the following: <ul style="list-style-type: none"> emails and newsletters sent out by the trust; member days or evenings such as "medicine for members" events; |

| Challenges | Considerations | Examples of good practice |
|------------|--|---|
| | <p>contacting a wide number of people and can help arrange member – governor events.</p> | <ul style="list-style-type: none"> – annual open days; – member-specific areas of the website; and/or – consultations with members over service areas or other specific topics. • At one trust, the lead governor presents each year at the Annual Members Meeting and describes the activities the governors have undertaken. • One trust is cooperating with neighbouring FTs so members sign up for three trusts at once, although on separate forms. • One trust organises member open evenings once a month providing talks on different medical themes. The meeting location is rotated around the county. The membership committee organises these events, which usually include a talk from a clinician followed by an interactive session. • The same trust has an involvement committee, in which governors write to members on different topics or to ask for help. Members agree for their contact details to be used for this purpose when signing up. • One trust chair believes that it is the responsibility of the trust itself to recruit members and set up an appropriate database with their details so that governors have permission to contact members most easily. |

5 Developing as individuals and as a group

5.1 Training

Governors have a number of important duties – both statutory and otherwise. It is important that individual governors, and the group as a whole, are supported with the training and development they need to undertake their duties effectively. Directors will also need to be involved in this. Various organisations are available and able to assist FTs in training their governors and trusts should investigate these options as this may help to ensure consistency in training and reduce the demands on the trust's own resources.

However, FTs should remember that trusts themselves retain overall responsibility in the Act for ensuring their governors are equipped with the skills and knowledge needed to undertake their role.

| Challenges | Considerations | Examples of good practice |
|---|---|--|
| <ul style="list-style-type: none"> Governors come from a wide range of backgrounds and may not be used to formal training and development. As a result it can be difficult to provide appropriate training at the right level for all. However, all governors require induction training on appointment and ongoing training thereafter, particularly in specialist areas. | <ul style="list-style-type: none"> It is important to offer governors induction training as soon as possible after election. This is typically within two months of election. Governors are more likely to take training seriously if directors are involved. Governor induction materials should contain sufficient detail to cover the key areas and act as a reference, but allow for the fact that governors are a group of part-time volunteers. Many trusts find governors learn best from working alongside other governors, so buddying systems for new governors can be useful. It may also be helpful to facilitate governors meeting other governors from neighbouring trusts to exchange ideas. | <ul style="list-style-type: none"> One trust conducts a training needs analysis and skills audit shortly after each election to establish the areas in which governors need training. Most trusts involve the chair, CEO, trust secretary and membership manager in governor training. At one trust the chair attends the training events all day unless there is a reason not to be there, and NEDs and EDs attend as needed and as helpful. One trust uses their HR function to teach the governors how to self-assess their capability and suggest actions for improvement. These forms are then given to the chair and lead governor who work through them together with the HR department to align people's suggestions with possible development opportunities. |
| <ul style="list-style-type: none"> Accessing training opportunities may also be difficult owing to the limited time and resources that governors have available. | <ul style="list-style-type: none"> Trusts should consider ways to maximise the use of governors' time. | <ul style="list-style-type: none"> At one trust governor training is undertaken one hour before each council meeting to make the best use of governors' time and avoid additional journeys. |
| <ul style="list-style-type: none"> Trusts themselves may also have stretched resources in terms of providing ongoing governor training, especially in specialist areas. | <ul style="list-style-type: none"> Outside experts can be used to provide training in specialist areas, such as specialist recruitment companies providing training on appointments. This might be targeted at members of particular working groups or | <ul style="list-style-type: none"> Many trusts have a 'governor training' subcommittee so governors can organise elements of their own training. At one trust executive directors each cover one training session per year on their specialist areas, |

| Challenges | Considerations | Examples of good practice |
|--|--|---|
| | <p>subcommittees.</p> <ul style="list-style-type: none"> Where governors attend external training events, it can be helpful to ask them to write a report on this from which other governors can learn. | <p>e.g. finance, remuneration, clinical safety and quality.</p> <ul style="list-style-type: none"> In one region, chairs have set up a governor exchange network in which four to five governors from each trust meet each other for training, to exchange information and showcase best practice. |
| <ul style="list-style-type: none"> Many trusts recognise that it can take two years for governors to get up to speed on the issues involved and workings of the trust. A governor may then retire or be up for re-election with no guarantee of being re-elected, which could be regarded as a waste of the trust's resources in training the governor. | <ul style="list-style-type: none"> It is important that governors communicate well with the members who elected them to ensure members are aware of their work on behalf of the trust, and to increase chances of re-election where this is sought. | <ul style="list-style-type: none"> At several trusts governors have 'portfolios of responsibility' which are reported on in member newsletters, so members can see the work that their governors have been undertaking. |

5.2 Governor appraisal

In the governor survey carried out by Monitor in 2010/11, to which 1,671 governors responded, a small number stated that they would like governor appraisal to be conducted at their trust.

| Challenges | Considerations | Examples of good practice |
|---|---|--|
| <ul style="list-style-type: none"> Governors are part-time volunteers, the majority of whom may not welcome appraisal of a role they undertake in a voluntary capacity. The numbers of candidates per governor seat are typically dropping across the sector. | <ul style="list-style-type: none"> All trusts surveyed said they would feel uncomfortable formally appraising governors in their role as volunteers. | <ul style="list-style-type: none"> At many trusts, governors self-evaluate the performance of the council as a whole, often using a self-assessment questionnaire put together with the help of the trust secretary. At one trust, this was done using an online evaluation tool, with the results used to guide ongoing training and development. Other trusts use an external board assessor to assess the board of directors and council of governors as a whole, with a view to clarifying roles and structures, amending processes if needed and guiding training. At one trust, governors drove a 'what is our role' stocktake, which helped identify the need for further briefing sessions. Each subcommittee at another trust self-appraises to ensure its processes are optimal. An annual appraisal of one trust's full council is carried out by a subgroup of governors whose portfolio includes governor effectiveness. |

6 The future role of governors

As described in the introductory section of this document, the Health and Social Care Act 2012 gives additional duties and powers to governors. These raise some issues in terms of how FTs and governors will adapt to the enhanced role. Some suggested responses to these issues are given below, focussing in particular on the role that directors can play to assist governors.

6.1 Issues raised

| Issues raised | Discussions | Monitor advice |
|--|---|---|
| <ul style="list-style-type: none"> Many trust boards are concerned that governors may not have the skills or experience to hold the board of directors to account or make decisions on significant transactions. Some also fear that the changes in the Act could result in losing the benefits of member engagement and balance. | <ul style="list-style-type: none"> Some trusts suggest a two-tier system of governors, whereby one group of governors with specific skills is responsible for holding the board to account and making decisions on significant transactions, whilst governors with other skills focus on communication with members and work on different subcommittees. However, other trusts are adamantly opposed to such a structure, which they say would be divisive, would undermine collective responsibility and might mean that the voices of patients, carers and service users in particular were lost. | <ul style="list-style-type: none"> It is preferable to maintain the cohesiveness of the full council and for governors to continue to nominate their candidates for different subcommittee roles, one of which might include to discuss significant transactions, for example. Different subcommittees might then receive appropriate training and guidance on specific areas as appropriate, such as finance, significant transactions, etc. However, the subcommittees should always report back to the main council for collective decision making. |
| <ul style="list-style-type: none"> There is also concern about governors' own liability and whether they may become 'shadow directors' through making decisions on significant transactions | <ul style="list-style-type: none"> Governors should not seek to take on an operational or management role in the trust. They should maintain their role as representatives of the members in ensuring local wishes are fed into decision making on behalf of the trust, and remember that directors are responsible for the day-to-day running of the trust and for recommending the appropriate strategic course of action. Governors should take responsibility for questioning the board of directors on their decisions and endorsing these if satisfied, or continuing to question if they feel due account has not been taken of member views. | <ul style="list-style-type: none"> Trusts should agree a process with their governors on how 'holding the non-executive directors to account' will be undertaken and evidenced. It should be clear from the process and documentation that governors are not making decisions on behalf of the trust, but questioning the NEDs on decisions made and ensuring that the views of members and the public are represented in the decision making process. |

| Issues raised | Discussions | Monitor advice |
|--|--|---|
| <ul style="list-style-type: none"> Governors and trusts alike are concerned that governors may need further training to equip them to take on the additional responsibilities in the expanded role. | <ul style="list-style-type: none"> It is clearly stated in the Act that it is the responsibility of the trusts themselves to ensure governors are equipped with the skills they need to undertake the role effectively. | <ul style="list-style-type: none"> Trusts should make themselves aware of all assistance that can be obtained in this area, including through the planned Department of Health national governor training programme, Foundation Trust Network events, Foundation Trust Governor Association events and any local and regional governor training frameworks already in place. Trusts should also consider conducting a skills audit or other self-assessment questionnaire so governors can give input into the training they believe they need. Trusts should then construct a cohesive training programme to address governors' skills requirements, making use of external training opportunities where needed to support the overall training approach. |

7 Key advice for aspirant foundation trusts

During the research, trust chairs and CEOs were asked for the key messages they would give to aspirant trusts who are setting up this model anew. The following is a list of their 'top tips'.

1. Constitution

Think carefully about your constitution from the outset. Think about how many governors of each type you really need, and which organisations would be most helpful for appointed governors. Consider staggering governor terms of office to avoid large numbers of experienced governors standing down at the same time.

2. Role clarification

Ensure governors and directors are clear about the boundaries of their respective roles from day one. Reinforce the roles during induction and ongoing training.

3. Mind-set

Involve governors in their roles from the start and ensure they feel valued. Take time for all directors to get to know the governors individually and for governors to get to know each other. Directors' attitudes are paramount and the model works best when all directors are approachable and value the governors' input.

4. Structure and organisation

Think about which meetings and subgroups will be of greatest value. Plan meetings well in advance, giving plenty of notice to everyone. Ensure that agendas and minutes are sent in an appropriate format for governors and on a timely basis. Ensure the communication process between the board of directors and council of governors is clear and effective and that action points are demonstrably followed up.

5. Learning from others

Speak to FTs who have already put the governor model into place and consider a buddying system between new governors and governors of existing FTs.

Further advice

For further advice on the governor role, please visit Monitor's [website](#), where you can access a range of publications including:

- [Code of Governance for NHS foundation trusts](#)
- [Current practice in NHS foundation trust member recruitment and engagement](#)
- [Survey of NHS foundation trust governors 2010/11](#)
- [Your statutory duties: a reference guide for NHS foundation trust governors](#)

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