

# Developing the role of NHS foundation trust governors



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# Context

In October 2007, Monitor – the Independent Regulator of NHS Foundation Trusts – commissioned Ipsos MORI to conduct a survey of foundation trust governors. This research was the largest survey of governors to date with over 1,300 responses.

In March 2008, Monitor hosted four regional events where we shared the results of the survey with governors and invited them to feed back their views and experiences.

This short report is intended to summarise the research from the survey and the feedback from foundation trust governors. The final section of the report identifies areas that require further attention in the context of the research, and highlights the work that Monitor is planning to take forward. Peter Hunt, Chief Executive of Mutuo – a not-for-profit society which works with the mutual sector – facilitated the events on behalf of Monitor and contributed to this report.

The results of the Ipsos MORI research are published in full as the *Survey of Foundation Trust Governors* available on our website [www.monitor-nhsft.gov.uk](http://www.monitor-nhsft.gov.uk)

It is Monitor's intention that this report and the *Survey of Foundation Trust Governors* will act as a useful reference for those with an interest in good governance and local accountability in health. We hope that, in the context of the positive picture presented by the research, our identification of areas for development will act as a catalyst for further progress.

# Introduction

There is significant interest across government at a national and local level in increasing the level of local accountability in public services. In this climate, the early experience of NHS foundation trusts could be invaluable.

Foundation trusts were established with a governance model that is rooted in the concept of local accountability. The Prime Minister has publicly stated his support for the foundation trust model as a means of providing locally accountable health services, and pledged increased involvement from the general public.

**“Patient involvement is vital to local accountability. I want to see 3 million foundation trust members by 2012 – up from 1 million today – and give them an even greater say in the workings of their trust.”**

Speech by the Prime Minister, the Right Honourable Gordon Brown MP to King’s College, London. Monday 7 January 2008.

Most NHS hospitals have well established links with the local communities that they serve. This is not surprising; we all have a vested interest in the performance of our local hospital because we know we may need to use its services one day. Various mechanisms have been created, aimed at engaging patients and the public with the NHS, but it wasn’t until the establishment of NHS foundation trusts that local people were given a genuine opportunity to influence the provision of acute hospital and mental health services in their area.

NHS foundation trust governors are the individuals that bind a trust to its patients, staff, and local stakeholders. They are direct representatives of local interests within the governance structure of the trust. The functions they perform go beyond community liaison; they have statutory responsibilities with the potential to have a significant effect on the management of the trust.



# Foundation trust governance

NHS foundation trusts were created as a key component of the government's plans to decentralise healthcare provision in the NHS, and deliver patient-led services.

The vast majority of comment and debate on the autonomy of foundation trusts has focused on the financial and management based freedoms, such as the freedom from central government control, or the freedom to retain and reinvest surplus income. The subject of local accountability, although often referred to in much of the current thinking on public sector reforms, has until recently not received the same level of attention.

In creating foundation trusts, Parliament provided these organisations with independence from central government but ensured that they would have a strong and clear line of local democratic accountability. They created in law a new governance structure designed specifically for foundation trusts, which ensures the direct participation of local communities.

The governance structure of all foundation trusts is comprised of the following components:

**Members:** patients, service users, staff, and the general public from the local community can join the foundation trust as members. Members vote to elect governors and can stand for election themselves.

**Board of governors:** represents the interests of foundation trust members and partner organisations in the local community, holds the board to account for the performance of the trust and exercises statutory duties.

The composition of the board of governors is set out in the constitution of each foundation trust. The board, which on average comprises between 25 and 40 governors, is likely to be made up of:

- **Public governors:** the majority of governors must be elected members drawn from the trust's public members. Trusts can include their patients, patients' carers, and service users in this category;
- **Staff governors:** at least three governors must be elected from the staff constituency;



- **Primary care trust:** the trust must appoint a governor from a primary care trust that it provides services for;
- **Local authority:** at least one governor must be appointed from one or more local authority; and
- **Additional appointed governors:** the trust may also appoint governors from stakeholders named as partner organisations. Examples of stakeholder organisations include the local police force, voluntary services groups, universities and county councils.

**The board of directors:** made up of executive and non-executive board members has collective responsibility for the performance of the trust and exercises power on behalf of the trust.

As required by law, the chair of the board of directors also acts as the chair of the board of governors.

The inclusion of members and governors in the foundation trust model sets them apart from other public service providers and enables them to operate as locally accountable, autonomous organisations. As part of their overall role in scrutinising the performance of the trust and representing members, governors are required to fulfil certain statutory duties.

The National Health Service 2006 Act gives governors powers to:

- appoint or remove the chair and non-executive directors;
- approve the appointment of the chief executive;
- decide the remuneration and allowances, and other terms and conditions of office, of the chair and other non-executive directors;
- appoint or remove the trust's auditor;
- receive the trust's audit report; and
- scrutinise the trust's annual plan.

Therefore, governors are in a position of considerable responsibility. They have genuine powers at their disposal and provide the trust with a direct link to its membership base.



# Monitor and governors

Foundation trust governors are still a relatively new development. Monitor authorised the first foundation trusts in 2004. We did not feel it was appropriate to assess the development of governors until they had begun to become established in their new roles.

As a regulator, Monitor has a firm commitment to good governance, which we set out in *The NHS Foundation Trust Code of Governance*, published in 2006. That document described what we believe to be the main principles of governance that apply to the board of directors and board of governors, but the work undertaken for this report has enabled us to get a clearer understanding of how governors have taken to their role.

Monitor commissioned Ipsos MORI to produce the *Survey of Foundation Trust Governors* in 2007. The broad objective of the survey was simple; we wanted to get a clear picture of how governors see their role – what is working well, and how it can be made better. But we also wanted to know if they were performing their statutory duties, and how they were delivering local accountability. This research was independent and we invite all interested parties to draw their own conclusions, but we have included some of our own diagnosis in the conclusions of this report.

## ***Survey of Foundation Trust Governors – some key findings***

- Seven in ten (69%) governors say they meet as a full board or council four or five times a year. The majority (86%) of governors say they attend every, or almost every, meeting. Some governors feel these meetings are not always as productive as they could be, with a quarter (24%) stating they are only productive sometimes.
- Governors generally seem to have a good relationship with their chair and executive board. Over eight in ten (84%) governors agree that their chair is doing a good job. However, one in six (16%) are dissatisfied with the level of contact they have with members of the board of directors. Interviews with some chairs and governors raised concerns about the amount of contact between governors and the board of directors.

- Four in five (79%) governors agree that they are clear about their roles and responsibilities as a governor. This is particularly true of those who have been governors for longer. Around half of governors have been involved in exercising their statutory powers. The majority of governors (88%) agree that they should be representing the views of their trust's membership.

The results of the survey are extremely informative, but more context was required to better understand the current status of this aspect of foundation trust governance. In March 2008, Monitor organised four events for NHS foundation trust governors across the country. The purpose of these events was two-fold; firstly to share the results of the *Survey of Foundation Trust Governors*, undertaken with governors in the autumn of 2007; and secondly to explore some of the issues specific to the role of governors.

Monitor gathered this information during the events by inviting governors to address a number of key questions:

1. How do you establish effective relationships (between governors and chairs, non-executives and executives)?
2. How can you use your statutory duties effectively?

3. How can governors ensure they are representative of, and engaging with, their membership?
4. How do you ensure governors' meetings are effective, and how do you get useful/timely information from your board of directors and elsewhere in your trust?
5. Appointed and elected governors; how can you get the best of the different roles?

These questions enabled us to build on the findings of the *Survey of Foundation Trust Governors* and extract a range of governors' experiences in undertaking their role. They focused on key parts of the functioning of trusts and the manner in which governors work with boards and executives.

The next section of this report reflects the contributions of governors who attended the events.





# What foundation trust governors are saying

This section contains a summary of the feedback we received which has been analysed and distilled into common themes reflecting what governors have told us. Where it is appropriate to do so, we have also included some key findings from the *Survey of Foundation Trust Governors*.

## Building effective relationships

The *Survey of Foundation Trust Governors* had found that generally relationships between governors and the chair and executive board are good. Two thirds of governors agree that their executive board is supportive of the governing body and view it as an asset. Over 8 in 10 governors agree that their chair is doing a good job. However, the qualitative research included in the survey described the problem of maintaining contact between governors and non-executive directors, and also highlighted potential tension between governors and the executive board.

According to the survey, those governors who feel they are not kept informed about the trust's activities are particularly likely to be dissatisfied, and are less clear about their roles and responsibilities. We wanted to have a further look at these important relationships.

Delegates gave their views on:

- The formal meeting processes and manner of working adopted; and
- Informal relationships between governors, chairs, non-executives and executives.

Many governors feel there is a need for trusts to adopt formal methods of joint working and communication between boards and governors. Many different approaches have been tried and, in particular, the issue of governor (or representatives of governors) attendance at trust board meetings is a live debate at many trusts.

**‘The deputy chair of governors who is a public governor attends the private sessions of the board as our representative.’**

Some trusts retain open board meetings and many have opted for closed meetings or partly closed meetings. Differing views remain on this subject, with sometimes contradictory experiences reported.

The most important factor in retaining good relationships between both parts of the governance structure appears to be the ability of the trust to foster a meaningful working relationship between all concerned. This means that often, informal (ie not related to a formal meeting) relationships are as important as those expressed through the constitution.

Governors believe that the role and style of the chair is a critical factor in the success of relationships within trusts. Equally, governors must feel that their role is understood and respected by boards. There appears to be evidence of relationships being strengthened through strong chairing and leadership skills.

It was felt that there is a need for sharing of experience between NHS foundation trusts, and potentially for good practice advice to be developed to establish standards across the sector.

**‘To help governors and directors to get to know one another we held a speed dating style session at our trust.’**

**‘Our trust organises away days between the governors and the board. We also have joint meetings with the board of directors and separate closed session meetings between the chair and governors.’**

## **Exercising statutory duties**

Over half of governors, according to the *Survey of Foundation Trust Governors* have exercised at least one of their statutory powers. We wanted to find out more about what governors saw as their statutory responsibilities and how they have approached them.

Governors at the events reported on their experience of the following duties:

- Audit;
- Nominations/appointments;
- Remuneration;
- Membership;
- Business plan; and
- General.

## Audit

Most governors have had little or no role with audit committees and from the responses received, governors are divided on whether they think they should have a role on the audit committees.

There was a consensus, however, that training is required for any governors that do have a role in audit, and that general NHS finance training is of value to all governors who are responsible for receiving the accounts in any case.

Governors do, however, formally appoint auditors and have done so each year on behalf of their trust.

## Nominations/appointments

Many governors talked about their direct personal experience of undertaking nomination and appointments roles for their trust.

It was felt that only those governors with relevant skills and experience should undertake this role, for example from their own work experience outside the NHS. Indeed, most trusts do have governors with such skills, but it was also remarked that in order to open up such processes to all governors, trusts should make training available.

**‘A number of governors are fully involved in the appointments process through our nominations sub-committee.’**

For those who had direct experience of this process, many governors reported that the nominations processes for non-executive directors tended to be strongly influenced by trust chairs. In some trusts, external consultants had been employed to assist and support governors in the process, and this was generally welcomed.

It was further suggested that an ongoing role for governors in the performance appraisal of those whom they had responsibility for appointing was an important procedure that some trusts had effectively deployed.

**‘Our governors receive reports on board performance and have an opportunity to challenge this on a regular basis.’**





## Remuneration

According to the results of the survey, around half (52%) of governors have been involved in deciding the remuneration of the chair.

Many governors have reported being actively involved in debates about remuneration policy at their trusts. Often this was the first opportunity to exercise one of the statutory duties for governors.

Governors appear to have exercised real influence at a number of trusts in respect of remuneration policies for non-executives and chairs. There is evidence of many trusts providing training to help governors fulfil their role.

The experience is varied in trusts with different approaches being taken. A number of governors remarked that this was an area in which advice would be helpful.

## Business plan

According to the survey, just over half (54%) of all governors had been involved in discussing the business plan and/or major business developments. Those who have been governors for a longer period of time are the most likely to have been involved in this area of work, as are those involved in more sub-committees, and those who feel they have the power to hold their executive to account.

The role of governors in receiving strategic business plans from trust boards has presented good opportunities for open discussion between boards and governors.

**‘Our governors are fully involved in the annual strategic plan. Focus groups have been created to look at specific areas of the plan and to allow governors to comment on proposals and make suggestions.’**

The experiences reported were overwhelmingly positive, and many trusts have actively engaged with governors in developing, or at least communicating, their business plan.

It was recognised that this is a complex area for newly elected governors and that there should be suitable training organised by trusts.

**‘At our trust we are embarking on a major reconfiguration of services with two hospitals closing and a new facility being built. We are able to fully participate in key decisions because the board is open and transparent in its planning. All key announcements are emailed directly to governors who feel part of the process.’**

## Representing and engaging with members

According to the results of the survey nine in ten (88%) governors agreed that they should be representing the views of the trust membership. However, the proportion of governors who feel confident they can represent the needs of the trust's membership (70%) is notably lower, and only 58% of governors feel that their trust is good at communicating its activities to its members. The survey also told us that two-thirds of trusts have a sub-committee of governors that is responsible for membership development. We wanted to explore governors' experience of working with their trusts on this.

Delegates gave lots of examples of their trust's approach to engaging with members through:

- Work with existing local voluntary organisations;
- Trust organised community outreach events;
- Contact with service users both directly and through representative organisations;
- Use of media such as newsletters and websites;
- Support services for membership and systems to manage them;
- Members' meetings;
- Educational events built around local health issues;
- Special efforts to work with staff governors; and
- Direct contact with individual members.

Many governors reported having had direct experience of seeking to engage with members and see it as part of their role. A wide range of different techniques have been adopted to do this.

Direct contact with individual members is seen as an important part of being a foundation trust. Different types of members meetings have been held around the country, sometimes for specific constituent groups, or more often through trust organised topical events.

**'We hold engagement meetings across the region that we serve, communicating our strategic plan and meeting with members.'**

Many trusts appear to be using voluntary organisations for outreach into their broader communities. Having identified special interest groups or those with particular health needs, engagement through existing organisations seems to be both popular and effective.

Other trusts have concentrated more on working with the users of their services and engaging with members and potential members by way of local health issues and educational events linked to them.

**‘Our trust has set up a group to work on the redevelopment of maternity services. We also hold patient surgeries, where patients can come and meet governors and comment on the services in the hospital.’**

Equally, various techniques were described, from a widespread use of newsletters, to more innovative examples of using the internet and other electronic media in order to communicate with and engage with members.

There appears to be varying experience of the support systems that trusts have put into place for managing membership. In some trusts, specific staff have been employed to undertake this function, whereas in others, existing posts have been extended to cover the required duties. It will be worthwhile for these different approaches to be documented and some assessment made of their efficacy.

Again, there is an appetite for sharing this experience and the different techniques deployed across trusts. There is now an opportunity to make some judgements about what works best, in order to build good practice guides.

The lack of responses relating to the need to make membership representative of the local community suggest that further support is necessary to help trusts to understand the need to meet this statutory requirement.

## **Holding effective meetings and getting the right information**

According to the Ipsos MORI survey, two thirds of governors believe that board or council meetings are productive always or most of the time but a quarter state that they are only productive sometimes.

However, only one in five (19%) of governors who feel they are not kept informed about trust activities believe that full board or council meetings are productive.

We wanted to find out what factors may be affecting this.

The survey also highlighted that governors struggle to attend all of these meetings due to working full-time and other commitments.

The responses to this question highlighted five broad areas:

- Meeting organisation/dynamics;
- The quality of access to trust executives and non-executives;
- The quality of the secretariat and communications support;
- The importance of governors being proactive participants; and
- The opportunities for governors to be educated/informed.

Governors described how different trusts have approached the organisation of meetings of their boards of governors, but most agreed that the manner in which meetings are organised is crucial to their success.

The dynamics of these meetings can be significantly affected by the setting and venue of the meeting, for example. In addition, governors have described how the agenda and programme of business for meetings has been set and the merits of working through task and finish groups or more formal sub-committees.

Several governors (from the early wave of foundation trusts) reported that their trusts had reviewed the size and composition of their governing body.

Although it is not a requirement, governors said that the attendance and contribution of executives and non-executive directors to the meetings is an important factor in their success.

Formal meetings present opportunities for governors to be informed about the work of the trust, and more broadly about the workings of the NHS. Most trusts appear to organise regular presentations from relevant executives and managers on issues of interest and importance to governors.

**‘We have reduced the size of our governing body which has led to a stronger feeling of ownership and better working relationships between the trust board and governors.’**

The issue of whether meetings of the board of directors should be open or closed to governors remains a contentious issue among governors.

Reinforcing the findings of the survey, governors feel that proper preparation for them to undertake their role is important – they need a grounding in knowledge on a range of health sector issues in order to do their job.

The support systems (secretariat and membership management) in trusts are important to governors, who are reliant upon these services to undertake their role.

For the longer established trusts, the experience appears to have been that much of what governors have done has been devised and led by trust executives. The preparation of ground for newly elected governors has been welcomed, but from the comments made, governors expressed a need to be more proactive and to take a lead on issues including devising work plans and agendas for their meetings.



## Recognising the distinct needs of appointed and elected governors

The Ipsos MORI poll revealed that four in five governors say that they are clear about their roles and responsibilities. There is a general understanding that board or council members who know each other well tend to be more effective. Staff governors are particularly well known to other governors, yet stakeholder governors are the least well-known with one in five governors stating they do not know any of the stakeholder governors in their trust well.

It was recognised that in order to succeed as a foundation trust, a new culture of accountability must be adopted. Part of this requires that trusts understand their governors – their motivations, skills and capacity to do the job, and many governors have reported positive outcomes where this has been the case.

Most trusts provide some kind of induction training for new governors. Some also provide pre-election briefings for prospective candidates, and have reported that these are successful.

**‘At our trust we provide a one-day induction course for all new governors with information on their role and responsibilities and presentations on the work of the trust.’**

Some trusts have gone as far as to provide training to fill identified gaps in experience or special needs of particular governors,

which has been welcomed. In the survey, governors were asked what briefings they may find beneficial, half (51%) suggested an introduction to the different parts of the NHS. This was particularly true of governors without an NHS or clinical background.

In support of the findings of the survey, there needs to be a greater clarity/ understanding about the roles of different categories of governors. Much effort has been expended upon understanding the needs and aspirations of governors elected from public and patient categories. Yet less has been done to identify the particular needs of staff or stakeholder governors, for example.

Governors identified that staff governors have different needs and aspirations from public or service user governors. It would seem worthwhile exploring how different categories of governors are engaged, documenting this and sharing the experience more widely.

Many governors reported that overall, stakeholder governors such as those appointed by the primary care trust or local authority were less actively involved than those who had been elected directly from the trust’s membership. Many comments indicated that action should be taken by trusts to better engage appointed governors.

**‘In our governors’ subgroups, we make sure that there is a broad representation of all different categories of governors, so that no single group dominates.’**



## Next steps – an agenda for improvement

We have been greatly encouraged by the results of the survey and the feedback from the events we hosted. The examples of the activities undertaken by governors have highlighted how they are bringing their local health service closer to their community.

On the whole they are engaged in the activities of the trust and many of them can cite something they have achieved as a governor. This is what governors were intended to do, and it is important that they are encouraged to build on their positive start.

It is still early days for many governors and we would expect those from newer foundation trusts to improve in terms of engagement and involvement with activities over time. When discussing the progress of governors we must recognise that the foundation trust sector is still in its infancy. There was no case history for the first governors to refer to, but that is what foundation trusts and other stakeholders must work cooperatively to develop.

It is our intention that our work with governors should act as the catalyst for progress on the issues emerging in this research, enabling governors and boards of directors at new and existing foundation trusts to benefit from the best practice experience of other trusts. The development needs set out below are based on information contained in the survey or in the feedback provided by governors. We have identified five themes that we believe require more attention, including one where Monitor should have a leading role in delivery.

### Opportunities for improvements

- 1. Information for new governors:** the survey revealed that most trusts provide some form of training for new governors. However, the feedback suggests that governors want trusts to provide a thorough induction programme that will help them get to grips with their new role. The content of the induction may vary according to the governor's constituency and background – for example, public governors may require more tutorial on the structure of the local NHS than staff governors.
- 2. Improved operation of the board of governors:** it is clear from the survey that governors who do not feel they are kept informed about their trust's activities are more likely to be dissatisfied, and are less clear about their roles and responsibilities. Boards of governors need to identify the type of information they require from their executive teams and use their agendas and committee structures to ensure productive meetings take place. This will enable them to hold informed discussions on their trust's performance and future strategy, and should increase their overall confidence in the role.

3. **Better interaction with the board of directors:** the qualitative research also revealed some governors' difficulties in working with the board of directors. Governors are expected to hold the board of directors to account and genuine interaction between both parties, facilitated by the chair of the trust, is therefore helpful.
4. **Relationship with members:** governors agree that representing the views of their trust's members is part of their remit, but fewer believe their trust is good at communicating with its membership. In their feedback, governors expressed an appetite for sharing the experience of communication techniques used by different trusts.
5. **Undertaking statutory duties:** the survey revealed that just over half of governors have participated in exercising at least one of their statutory powers. This is an encouraging start, but the feedback recognised that these are complex areas, particularly for newly elected governors, and that more resources to assist them in undertaking their duties would be welcomed.

Monitor is responsible for implementing the legislation that governs foundation trusts. In the same way that Monitor may use its formal powers of intervention to remove any or all of the directors of a foundation trust, Monitor may also use these powers to remove any or all of the members of the board of governors. Whilst these powers may only be used where there is a significant failure by the foundation trust to comply with any term of its authorisation as set by Monitor, and they will always be used in a proportionate way, it is important that governors appreciate that these powers exist. In this context

we have identified the fifth development need – relating to the understanding and discharging of statutory duties – as one in which we have a leading role to play as the regulator. It is essential that governors fulfil their statutory duties and, with the board of directors, deliver good governance in foundation trusts.

We believe it is imperative that governors are provided with guidance that will enable them to exercise their powers effectively. Therefore, Monitor's work in this area will include a review of the *NHS Foundation Trust Code of Governance* with a view to publishing more specific guidance for governors regarding their statutory duties later in 2008/09.

However, there are other aspects of local accountability, such as interaction with members, which we do not believe will be best achieved by following a regulatory framework. These are concepts that trusts themselves must develop, and organisations such as the Foundation Trust Network and the newly established Foundation Trust Governors Association may provide valuable support in doing this. The solutions to these issues will come through cooperative working between trusts and relevant bodies from within the foundation trust community.

Monitor has commented in other reports that foundation trusts have a unique opportunity to use their freedoms to improve and reshape health services around the needs of their local community as set out by their commissioners. There is great potential for NHS foundation trusts, through their governors, to ensure that patients and the public are at the heart of their plans for the future.



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