Annual Report and Accounts
2008–09

Monitor
Independent Regulator
of NHS Foundation Trusts

Monitor – Independent Regulator of NHS Foundation Trusts

Annual report and accounts 1 April 2008 – 31 March 2009

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Monitor

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of NHS Foundation Trusts

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Our vision

What is our aspiration for the future?

An **affordable, devolved healthcare system** in which patients and service users receive **excellent care** and taxpayers achieve **value for money** through autonomous, well-led, financially robust providers responding to commissioners' requirements and patients' and service users' choices.

Our mission

What is Monitor's role?

To provide a **regulatory framework which ensures that NHS foundation trusts are well led and financially robust** so that they are able to deliver excellent care and value for money.

Our strategy

- Operate **a proportionate, risk-based regulatory regime** which ensures that NHS foundation trusts are well governed and financially robust and that, where needed, interventions are timely and effective to prevent and remedy significant breaches of their terms of authorisation.

- Operate a **rigorous assessment** process and support the development of applicants to establish all eligible trusts as NHS foundation trusts which are legally constituted, well governed and financially robust.

- Promote the **development of well-led NHS foundation trusts** which are capable of delivering excellent care and value for money as they respond to commissioners' requirements and patients' and service users' choices.

- Work with partners to contribute to and influence the **development of an affordable, devolved healthcare system** with a coherent regulatory regime and effective incentives for providers to deliver excellent care for patients and service users and value for money for taxpayers.

- Continue to improve as a **high-performing organisation** which attracts, develops and retains talented people; operates efficiently; remains legally compliant and meets high professional standards.

Foreword

Dr William Moyes
Executive Chairman

In 2008–09 we reached the position where more than half of the English hospital system had been authorised as NHS foundation trusts. This means that they are responsible for deciding for themselves how best to organise and manage their hospitals to deliver high-quality, cost-effective care. The boards of foundation trusts therefore need to ensure that their governance and finances are strong. In addition, foundation trusts are expected to be good employers and good partners with other agencies, to play their part in meeting wider social objectives such as sustainability and diversity, and their boards need to be in a position to know that these things are being achieved and to act when they are not.

In short, foundation trusts are expected to perform as well as the best organisations in any sector of the UK's economy. This may seem like a tough challenge, but it is the right approach to take to a service which is so vital and which touches the lives of everyone at some point.

Although it has always been Monitor's ambition to develop a hospital sector in England that could meet these ambitious standards, developments over the last year in healthcare and in the wider economy make it essential that our hospital system should be well governed and financially strong.

The Next Stage Review undertaken by Lord Darzi and published in June 2008 made clear that quality in all its aspects – safety, good clinical outcomes and patient and service user experience of the healthcare system – had to be the driving force behind the NHS of the future. His report has rightly been strongly welcomed and has unleashed tremendous energy across all parts of the NHS.

The first steps have been taken towards developing a reliable and comprehensible framework for hospitals to report the quality of the services they deliver and the extent to which they have achieved improvements in quality. I am proud that Monitor played a leading part in developing the quality reporting framework, in co-operation with NHS East of England, the Care Quality Commission and the Department of Health. For the first time foundation trusts will be required in their annual reports for 2008–09 to publish data on quality. And work is already underway to broaden and deepen these reporting requirements. In addition, there are a large number of other initiatives to help hospital boards and clinical leaders to understand and improve the quality of the services they deliver. From that perspective, 2008–09 will be seen as a landmark year for the NHS.

Regrettably, it will also be seen as a year of economic downturn with implications stretching into the future. Although it is too early to offer precise forecasts, the impact on public expenditure generally is likely to be very severe and it seems highly unlikely that the healthcare system can be excluded from these pressures. How will the hospital system cope?

Obviously, there will be pressure on costs across the whole healthcare system. But the response will have to be more fundamental. Considerable changes will be required in the way

that healthcare is organised if the public's legitimate expectations for a high quality and improving service are to be met within a level of public expenditure that may not grow in real terms for several years.

Faced with these pressures, there can be no doubt that our hospital system needs the strong governance and financial strength that are characteristic of foundation trusts.

Quick progress with ensuring that all hospitals are capable of being authorised as foundation trusts is therefore an essential part of an effective response to likely future economic pressures. There is still some way to go before that is achieved. The half of our hospital system that has not yet managed to demonstrate that they can meet the standards required to become a foundation trust includes some of our largest and most complex hospitals. Their inability to meet the required standards must be a matter of great concern. I very much hope that during 2009–10 we will see real progress with increasing the number of foundation trusts, particularly the larger teaching hospitals, and with developing realistic plans for those hospitals that are judged unlikely ever to be able in their present form to have the strength of governance and finance needed to secure authorisation. This is essential if the hospital system is to deliver Lord Darzi's ambitious quality agenda within the public expenditure likely to be available to it.

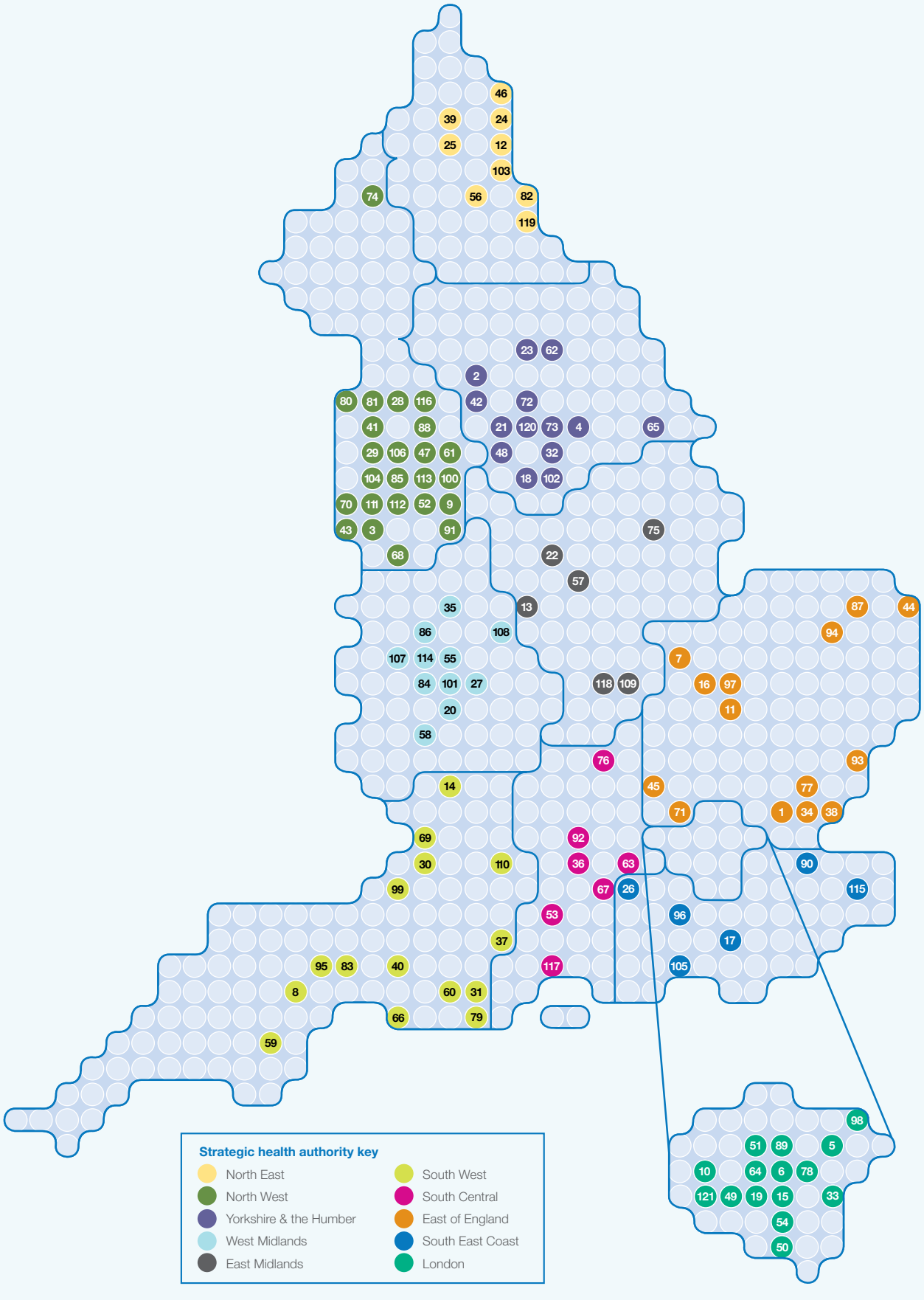
Foundation trusts themselves need to ensure that they maximise the opportunities and benefits of the considerable freedoms that Parliament has conferred on them. There are many areas in which joint working to explore new ways of organising hospitals and of delivering services would bring real benefits without restricting the competitive element that is so central to the Government's reforms of the healthcare system.

Foundation trusts need to acknowledge that they have real responsibilities towards the 1.5 million members they have recruited and the 3,800 governors elected to oversee foundation trusts. The governors have a unique responsibility to ensure that their local hospital understands and acknowledges the requirements of patients, staff and the wider public, but to do this they need to be properly resourced and supported.

Over the last year a number of commentators have remarked on the fact that many foundation trusts, although successful, do not appear to be innovative in the way they organise themselves or the services they provide. But I wonder if that is such a surprise. The pressures on foundation trusts are often to conform to established ways of working or to meet the managerial requirements of the wider healthcare system. If innovation is to be encouraged and developed, foundation trusts need to know that they will not be criticised for doing things differently or for backing their own judgement rather than keeping a low profile and following established practice. This needs to be recognised if the foundation trust system is to achieve its full potential. When it does, the real beneficiaries will be patients.

NHS foundation trusts

1 July 2009



NHS foundation trusts by authorisation date

1 July 2009

1	Basildon and Thurrock University Hospitals	1 Apr 2004
2	Bradford Teaching Hospitals	1 Apr 2004
3	Countess of Chester Hospital	1 Apr 2004
4	Doncaster and Bassetlaw Hospitals	1 Apr 2004
5	Homerton University Hospital	1 Apr 2004
6	Moorfields Eye Hospital	1 Apr 2004
7	Peterborough and Stamford Hospitals	1 Apr 2004
8	Royal Devon and Exeter	1 Apr 2004
9	Stockport	1 Apr 2004
10	The Royal Marsden	1 Apr 2004
11	Cambridge University Hospitals	1 Jul 2004
12	City Hospitals Sunderland	1 Jul 2004
13	Derby Hospitals	1 Jul 2004
14	Gloucestershire Hospitals	1 Jul 2004
15	Guy's and St Thomas'	1 Jul 2004
16	Papworth Hospital	1 Jul 2004
17	Queen Victoria Hospital	1 Jul 2004
18	Sheffield Teaching Hospitals	1 Jul 2004
19	University College London Hospitals	1 Jul 2004
20	University Hospitals Birmingham	1 Jul 2004
21	Barnsley Hospital	1 Jan 2005
22	Chesterfield Royal Hospital	1 Jan 2005
23	Harrogate and District	1 Jan 2005
24	South Tyneside	1 Jan 2005
25	Gateshead Health	5 Jan 2005
26	Frimley Park Hospital	1 Apr 2005
27	Heart of England	1 Apr 2005
28	Lancashire Teaching Hospitals	1 Apr 2005
29	Liverpool Women's	1 Apr 2005
30	Royal National Hospital for Rheumatic Diseases	1 Apr 2005
31	The Royal Bournemouth and Christchurch Hospitals	1 Apr 2005
32	The Rotherham	1 Jun 2005
33	Oxleas	1 May 2006
34	South Essex Partnership University	1 May 2006
35	South Staffordshire and Shropshire Healthcare	1 May 2006
36	Royal Berkshire	1 Jun 2006
37	Salisbury	1 Jun 2006
38	Southend University Hospital	1 Jun 2006
39	The Newcastle upon Tyne Hospitals	1 Jun 2006
40	Yeovil District Hospital	1 Jun 2006
41	Aintree University Hospitals	1 Aug 2006
42	Calderdale and Huddersfield	1 Aug 2006
43	Clatterbridge Centre for Oncology	1 Aug 2006
44	James Paget University Hospitals	1 Aug 2006
45	Luton and Dunstable Hospital	1 Aug 2006
46	Northumbria Healthcare	1 Aug 2006
47	Salford Royal	1 Aug 2006
48	Sheffield Children's	1 Aug 2006
49	Chelsea and Westminster Hospital	1 Oct 2006
50	South London and Maudsley	1 Nov 2006
51	Tavistock and Portman	1 Nov 2006
52	University Hospital of South Manchester	1 Nov 2006
53	Basingstoke and North Hampshire	1 Dec 2006
54	King's College Hospital	1 Dec 2006
55	Birmingham Children's Hospital	1 Feb 2007
56	County Durham and Darlington	1 Feb 2007
57	Sherwood Forest Hospitals	1 Feb 2007
58	The Royal Orthopaedic Hospital	1 Feb 2007
59	South Devon Healthcare	1 Mar 2007
60	Dorset Healthcare	1 Apr 2007
61	The Christie	1 Apr 2007
62	York Hospitals	1 Apr 2007
63	Berkshire Healthcare	1 May 2007
64	Central and North West London	1 May 2007
65	Northern Lincolnshire and Goole Hospitals	1 May 2007
66	Dorset County Hospital	1 Jun 2007
67	Heatherwood and Wexham Park Hospitals	1 Jun 2007
68	Cheshire and Wirral Partnership	1 Jul 2007
69	^{2}gether	1 Jul 2007
70	Wirral University Teaching Hospital	1 Jul 2007
71	Hertfordshire Partnership	1 Aug 2007
72	Leeds Partnerships	1 Aug 2007
73	Rotherham Doncaster and South Humber Mental Health	1 Aug 2007
74	Cumbria Partnership	1 Oct 2007
75	Lincolnshire Partnership	1 Oct 2007
76	Milton Keynes Hospital	1 Oct 2007
77	North Essex Partnership	1 Oct 2007
78	East London	1 Nov 2007
79	Poole Hospital	1 Nov 2007
80	Blackpool Fylde and Wyre Hospitals	1 Dec 2007
81	Lancashire Care	1 Dec 2007
82	North Tees and Hartlepool	1 Dec 2007
83	Taunton and Somerset	1 Dec 2007
84	Birmingham Women's	1 Feb 2008
85	Greater Manchester West Mental Health	1 Feb 2008
86	Mid Staffordshire	1 Feb 2008
87	Norfolk and Waveney Mental Health	1 Feb 2008
88	Tameside Hospital	1 Feb 2008
89	Camden and Islington	1 Mar 2008
90	Medway	1 Apr 2008
91	Mid Cheshire Hospitals	1 Apr 2008
92	Oxfordshire and Buckinghamshire Mental Health	1 Apr 2008
93	Colchester Hospital University	1 May 2008
94	Norfolk and Norwich University Hospitals	1 May 2008
95	Somerset Partnership	1 May 2008
96	Surrey and Borders Partnership	1 May 2008
97	Cambridgeshire and Peterborough	1 Jun 2008
98	North East London	1 Jun 2008
99	University Hospitals Bristol	1 Jun 2008
100	Pennine Care	1 Jul 2008
101	Birmingham and Solihull Mental Health	1 Jul 2008
102	Sheffield Health and Social Care	1 Jul 2008
103	Tees, Esk and Wear Valleys	1 Jul 2008
104	Alder Hey Children's	1 Aug 2008
105	Sussex Partnership	1 Aug 2008
106	Royal Bolton Hospital	1 Oct 2008
107	The Dudley Group of Hospitals	1 Oct 2008
108	Burton Hospitals	1 Nov 2008
109	Kettering General Hospital	1 Nov 2008
110	Great Western Hospitals	1 Dec 2008
111	Warrington and Halton Hospitals	1 Dec 2008
112	Wrightington, Wigan and Leigh	1 Dec 2008
113	Central Manchester University Hospitals	1 Jan 2009
114	Sandwell Mental Health and Social Care	1 Feb 2009
115	East Kent Hospitals University	1 Mar 2009
116	Calderstones Partnership	1 Apr 2009
117	Hampshire Partnership	1 Apr 2009
118	Northamptonshire Healthcare	1 May 2009
119	South Tees Hospitals	1 May 2009
120	South West Yorkshire Partnership	1 May 2009
121	Royal Brompton & Harefield	1 June 2009

Monitor's roles and responsibilities

Monitor is the independent regulator of NHS foundation trusts. We authorise and then regulate foundation trusts, ensuring that they remain well led, financially robust and legally constituted. Behind everything we do is a commitment that patients and service users receive quality care from efficiently run services.

Rigorous assessment

We receive and consider applications from NHS trusts seeking NHS foundation trust status. Our assessment process focuses on three questions:

1. **Is the trust well governed?**
   Does the board have the skills and related governance structures to drive future strategy and improve patient care?

2. **Is the trust financially viable and sustainable?**
   Do the trust's short-term working capital review and five-year business plan show a good sustainable position, able to meet financial challenges in the medium term?

3. **Is the trust legally constituted?**
   Does the trust's constitution comply with legal requirements and does it have a representative membership?

If we are satisfied that the organisation meets these requirements, we will authorise it as an NHS foundation trust.

Proportionate regulation

On authorisation, a new NHS foundation trust is issued with terms of authorisation. These set out the conditions which the trust is required to meet, and include:

- establishing and complying with arrangements to monitor and improve the quality of healthcare it provides;
- delivering healthcare services to specified standards under agreed contracts with its commissioners;
- operating effectively, efficiently and economically;
- operating as a going concern at all times, as defined by relevant accounting standards;
- cooperating with other NHS organisations; and
- governing itself in accordance with best practice and maintaining its capacity to deliver mandatory services (the services a foundation trust must provide as defined within its terms of authorisation).

Monitor's role is to ensure each foundation trust continues to comply with its terms of authorisation. Using trusts' annual plans and quarterly submissions, combined with other available information, we prepare annual and quarterly risk ratings for each trust. These score their level of risk in relation to actual or potential breaches of the terms of authorisation, and the likely severity of the breach, covering financial

performance, the effectiveness of their governance and the provision of mandatory services.

Our regulatory approach is proportionate to risk. Successful, well-governed trusts that demonstrate low risk of a breach are required to provide limited information and will expect to have less contact with Monitor. However, where we see evidence of material financial or service performance problems, we will act swiftly to identify the underlying cause and ensure they are being addressed in an effective and timely manner.

We hold trust boards of directors accountable for complying with the terms of authorisation and rectifying any potential or actual breaches. If we are concerned that a trust is not taking appropriate action to address concerns, we can use our formal powers to ensure patients, service users and services are safeguarded.

Developing a devolved healthcare system

Parliament established Monitor to ensure that foundation trusts deliver high quality care to patients and service users, value for money to the taxpayer and genuine accountability to their local communities. Monitor looks to the boards of NHS foundation trusts as the first line of regulation. Monitor therefore plays a part in supporting trusts to develop the capability of their boards and to adopt effective management practices. We seek to influence policy at a national level to promote the development of a healthcare system in which the benefits of foundation status can be fully realised.

Monitor's values

Although Monitor's independence is vital in order to discharge our statutory functions effectively, we seek to work in partnership with others to share information and intelligence and to take action on areas of shared interest in order to source skills and expertise, build common agendas and understanding and avoid duplication.

As a regulator we aim to be open, transparent and proportionate. We follow clear published frameworks for our assessment and compliance activities, publish regular reports on the NHS foundation trust sector and make Monitor's Board minutes accessible to the public on our website.

We are, by design, a small organisation. We work efficiently and effectively to maintain high levels of performance, and attract and continue to develop skilled and professional people to help us achieve our goals.

Monitor's annual planning cycle

This *Annual Report and Accounts* is a vital part of our annual planning and reporting cycle. It sets out our performance against targets in the *Business Plan* for 2008–09, which refines the longer-term plans published in the three-year *Corporate Plan*.

A three-year *Corporate Plan* for the period 2009–12 has recently been published; it can be found on our website:
www.monitor-nhsft.gov.uk

Monitor's roles and responsibilities

Assessment

- Assess NHS foundation trust applicants and authorise new NHS foundation trusts.
- Define the mandatory goods and services that an NHS foundation trust must continue to provide – these are the services which the NHS foundation trust is contracted to provide by its commissioners.
- Approve mergers between NHS foundation trusts, or involving an NHS foundation trust and a non-NHS foundation trust.

Compliance and control

- Review annual business plans, assess risk and monitor performance.
- Intervene to prevent financial, clinical and service delivery failure.
- Prevent the disposal of assets necessary to deliver mandatory services ('protected assets').
- Ensure, through the risk rating, that major risks (e.g. investments, joint ventures or acquisitions) are manageable for an NHS foundation trust.
- Set a cap on private patient income (the limit to the income from private patients which NHS foundation trusts are allowed to generate).
- Define the prudential borrowing code and set individual borrowing limits.
- In addition, via the terms of authorisation:
  - ensure delivery of national targets and standards;
  - ensure maintenance as a going concern;
  - drive economic, efficient and effective performance; and
  - require the provision of specific information.

Information and assurance

- Set the accounting, reporting and audit regime.
- Prepare consolidated NHS foundation trust accounts and present them to Parliament.
- Report on a quarterly basis on NHS foundation trust performance.

Foundation trusts and system development

- Promote good governance (through the *Code of Governance for NHS Foundation Trusts*, board development and training development, and work to share best practice from the private sector).
- Promote the adoption of service-line management.

Rigorous assessment

This year saw the achievement of a major milestone within the foundation trust sector; over half of all acute and mental health trusts have now achieved NHS foundation trust status. At the end of 2008–09, foundation trusts numbered 115 out of 225 acute and mental health NHS trusts.

Assessment activity during 2008–09

Monitor's assessment process is tough. Scrutinising trusts' governance arrangements, financial viability and performance against national standards and targets, we must satisfy ourselves that they are able to manage service delivery, finance and risk, and have a sound basis for strategic decision making.

During the year we assessed 43 applications, leading to the authorisation of 26 NHS foundation trusts. This included seven trusts that had previously postponed their applications or where Monitor deferred decisions.

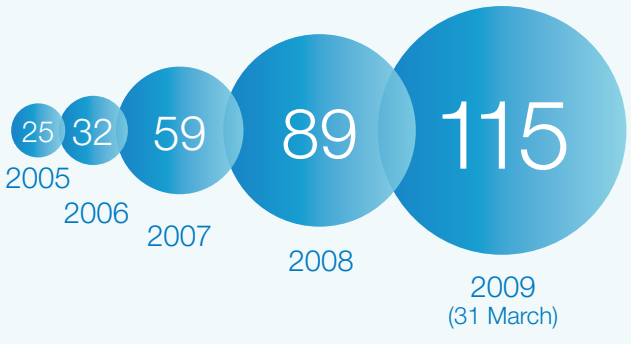
Monitor's Board can defer an authorisation decision where it considers that outstanding issues can be solved in a reasonable period of time. Where issues arise during the assessment process which require resolution before an authorisation decision can be made, applicants may write to Monitor to request a postponement. During 2008–09, we deferred a decision on two applications and ten trusts postponed their applications.

One application was rejected and six trusts withdrew their applications.

In our forward look last year we anticipated that there would be challenges to the applicant pipeline and pass rate in 2008–09. The challenges we highlighted included:

- more applicants starting from a weaker financial position;
- the impact of new tariffs creating more volatility in income;
- the Department of Health's requirement that no applicant would be referred to us unless it was meeting its targets on tackling MRSA and C.difficile; and
- uncertainty over commissioning intentions.

Number of NHS foundation trusts



As a result of these challenges we have seen a slight decline in the number of applicants assessed (from 45 in 2007–08 to 43 this year) and in the number of trusts receiving authorisation at their first attempt (from 61% in 2007–08 to 58% this year).

The reasons for postponements, deferrals and rejections were broadly consistent with the previous year:

Long-term financial viability concerns

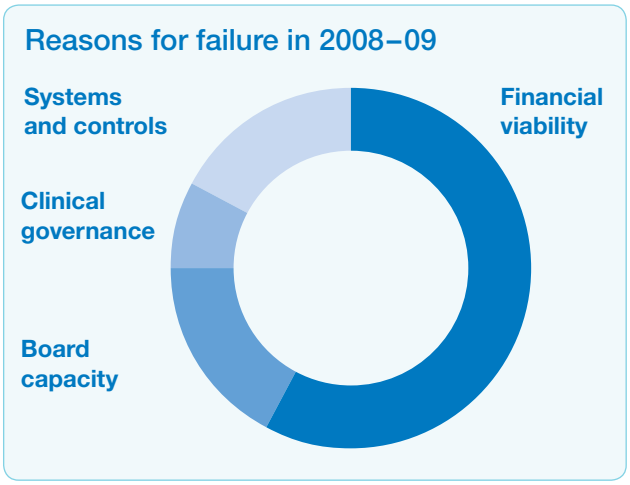
- significant income risk caused by uncertainty over short to medium-term commissioning intentions;
- uncertainty over the impact of future tariff changes; and
- applicants unable to demonstrate robust cost improvement programmes and mitigations to address the risks identified through assessment.

Governance concerns

- the need to wait for the outcome of reviews undertaken by the Healthcare Commission, e.g. investigations into clinical mortality outliers, and follow up to the acute mental health inpatient review;
- degree to which non-executive directors are embedded in the organisation and concerns over ability to demonstrate effective challenge to the executive team; and
- failure to demonstrate effective reporting to and oversight by the board.

	2007–08	2008–09
Assessed	45	43
Authorised	30	26
Deferred	7	2
Postponed	7	10
Withdrew	1	6*
Rejected	1	1

*The 2008–09 withdrawals include two applications originally assessed in 2007–08 which were either postponed or deferred in that year. The withdrawal in 2007–08 related to an application which was postponed in 2006–07.



Reviewing our approach

One of our corporate objectives during the year was to review our approach to clinical governance. This became particularly relevant as a result of the issues which came to light after the authorisation of Mid Staffordshire NHS Foundation Trust.

The trust, which was authorised in February 2008, was the subject of a subsequent investigation by the Healthcare Commission which identified significant failings relating to quality of care, governance and leadership.

Prior to 2008–09, we had a robust approach to looking at clinical governance during the assessment process which involved:

- a detailed review of board processes to identify and manage clinical risks (including interviews with board members and clinical governance subcommittees, interviews at directorate level and a review of action plans);
- a review of external information (e.g. reviews from the Healthcare Commission including the annual health check);
- interviews with external parties (e.g. strategic health authorities and commissioners);
- a review of performance data (including target performance and standardised mortality rates); and
- a review of benchmarking data.

During 2008–09, in addition to our existing process, we enhanced our approach by formalising our contact with the Healthcare Commission (now the Care Quality Commission).

We now receive two reports collating the Care Quality Commission's feedback on each applicant, firstly prior to the board to board meeting we hold with each applicant trust board, and secondly, just before our Board's decision. This ensures we have an up-to-date picture from the Care Quality Commission at key points in the assessment process.

We have streamlined our reporting mechanisms and now undertake a more systematic review of clinical performance data from each applicant. This includes analysis of board reporting on standardised mortality rates, and board reporting on themes/trends arising from complaints and serious untoward incidents.

We continue to review and evolve our approach to assessment, building on learning from Mid Staffordshire.

Scaling up our assessment capacity

At the beginning of the year we agreed a target with the Department of Health of scaling up our assessment team structure, systems and processes to deliver 60 assessments a year from 1 April 2008 and 80 assessments a year from December 2008. At the time we acknowledged that this would depend on the number of applicants referred to us by the Department of Health.

The challenges in the system meant that the number of applicants referred to us by the Department of Health in 2008–09 was not sufficient to warrant a scale-up to undertake 80 assessments a year. We do not expect to scale up our assessment capacity in the short term. However, we will liaise closely with the Department of Health in 2009–10 to ensure our assessment capacity is aligned with their trajectory.

The Government remains committed to delivering an all foundation trust model for the NHS. The Department of Health has been working with us and with strategic health authorities to identify the pipeline of applicants. This is to ensure the maximum number of foundation trusts are authorised in as short a timeframe as possible while maintaining the bar we set for authorisation.

Looking forward to 2009–10

As we start to assess the remaining 48% of the acute and mental health sectors, we are dealing with more trusts which historically have had a challenging financial position. We recognise that this has had an impact on this year's pass rate and will continue to have an impact on the number of trusts being passed to us to assess, and those we can authorise at first attempt.

In March this year, we revised the assumptions we apply to applicants' financial plans to reflect the public spending announcements in the November Pre-Budget Report. The 2009 Budget revised downwards the forecasts for future overall public spending from 2011–12 onwards. This means that trusts have to be able to demonstrate how they can cope with a much tougher public spending climate in the future.

As a result, there may be an impact on both the number of trusts referred to Monitor by the Department of Health and on the pass rate for those applicants after their referral. The extent of the impact depends on the ability of applicants to plan for efficiency improvements which can drive out costs from their organisations without compromising on the quality of care they provide.

"We want as many acute and mental health trusts as possible to achieve foundation status over the next few years, benefiting from the greater freedom it brings, and delivering innovative new services for patients locally."

Ben Bradshaw MP,
Minister of State
for Health Services,
December 2008

Building the new Berrywood Hospital at Northamptonshire Healthcare NHS Foundation Trust

Case study 1
Asking the right questions

Monitor's assessment process is rigorous and thorough; we set the bar high. But while a trust's journey towards NHS foundation trust status is often challenging, it reaps long-term rewards.

Northamptonshire Healthcare NHS Foundation Trust was first assessed for foundation trust status in October 2007. Monitor identified some areas where the trust's board needed to focus its attention before it could satisfy our requirements, and the application was deferred for up to 12 months to enable it to strengthen those areas.

Ron Shields, the trust's Chief Executive, says, "The biggest challenge was Monitor's requirement for business planning. We were a pretty good organisation in terms of NHS ways of working, and we thought that was good enough. However, in hindsight we were ill-prepared – we didn't have the robust and integrated business plan that Monitor expects."

They went back to the drawing board to create a new plan, and Ron has found that the planning process has improved the way the trust operates. "It has made us much more systematic and thorough in terms of what we do, in assessing our capital requirements and workforce requirements and considering how we will develop in the future."

It was also an opportunity to engage clinicians in the trust's planning. "The new plan has been developed with their full ownership; we sought their affirmation at each stage. They know and understand the trust's aspirations for improving services and also the need for greater productivity and efficiency," says Ron.

Monitor's initial assessment also highlighted a need to improve the quality of the trust's governance. The trust decided it wanted to widen the range of experience it could draw upon at board level. Ron says, "We had to make changes at board level. We recruited four new non-executive directors, all with substantial commercial and business experience. The difference it has made to the way we operate is quite dramatic."

Another factor in the assessment process was the measurement of service quality. "We were required to apply a yardstick to our services to demonstrate that they are as good and as safe as they need to be," says Ron. "In the absence of national comparative data for mental health trusts, this was a challenge. We needed to have a greater level of knowledge and awareness of what happens with our patients. Where we didn't know, we needed to be more assertive about finding out."

Following a further assessment the trust was granted NHS foundation trust status on 1 May 2009. Ron acknowledges that the journey towards authorisation was often difficult, but that it has ultimately made them a better trust. "We have learned enormously from it. It forced us to address the right questions and make sure we had the answers. Now we are able to anticipate and predict where we're going, rather than reacting to events over a much shorter timescale. We are more systematic, more focused, and able to say, with confidence, how we are going to face the future."

Rigorous assessment

Performance against 2008–09 business objectives

Business objective	Actions	Outcome
Deliver a high and consistent standard of assessment	Monitor's Board decisions based on quality analysis and insight	**Action completed** Monitor assessed 43 applicants in 2008–09
	Manage work of subcontractors and review working capital and financial reporting procedures of applicants	**Action completed** Scope of work refined in March 2009 to include management reporting of targets and standards, International Financial Reporting Standards (IFRS), and to introduce an earlier stage reporting on financial reporting procedures and projections
	Review the approach to clinical governance and performance in the assessment of applicant trusts	**Action completed** Approach to clinical governance refined in June 2008 to include formalised reporting from the Healthcare Commission (now Care Quality Commission) and more systematic review of clinical performance data. We continue to refine our approach in light of learnings from Mid Staffordshire NHS Foundation Trust
Ensure assessment system is able to deliver at least 80 assessments a year by April 2009	Continue to develop the assessment team structure, systems and processes to ensure scaled up activity is managed effectively and efficiently	**Action completed**
	Recruit and train additional assessment resources to deliver 80 assessment slots a year from December 2008 subject to ongoing review with the Department of Health of the expected pipeline	**Not completed** Scale up to 80 assessments per year not required given pipeline of referrals from Secretary of State
	Ensure capacity to deliver 60 assessments during 2008–09	**Partially completed** Capacity increased in line with referrals from the Department of Health – 43 assessments considered in 2008–09 in line with Secretary of State referrals
Assessment of all transactions with major risks	Assess major investments, mergers, acquisitions and all other transactions with major risks	**Not applicable** No major investments, mergers or acquisitions were assessed in year
	Develop methodologies for assessing new categories of applicant trusts potentially including ambulance trusts, community foundation trusts and NHS Direct	**Action completed** Applicable for ambulance trusts in 2008–09. Work ongoing for community foundation trusts

Proportionate regulation

Monitor takes a proportionate, risk-based approach to regulating NHS foundation trusts. This enables us to identify potential areas of concern within trusts and then work with their boards to resolve them; fundamental changes can be brought about by sustained and close working with trusts over time. By holding boards to account in this way, we have ensured prompt, effective action that can resolve concerns before they become significant problems.

However, formal intervention has an important place in our regulatory regime; in 2008–09 it proved necessary on occasion for us to use our formal powers of intervention; more details are given later in this section.

This year we have formalised and published the detailed process we use to escalate regulatory issues when we are concerned about foundation trusts' compliance, the actions we take in response and the steps required of trusts.

The effectiveness of our approach has been demonstrated by the positive outcome of our actions in relation to governance concerns indicated by foundation trust targets for the reduction of MRSA cases. Continuing reduction in MRSA levels remains a key challenge for trusts, and we use performance in this area as one of the indicators of boards' ability to identify risk and where necessary implement effective and timely action plans. We expand upon our approach to governance concerns related to MRSA targets on pages 19–21.

Board accountability

Our approach of holding boards to account has also shown good results in relation to the Government's new 18-weeks referral to treatment waiting times targets.

By setting clear expectations, monitoring progress and holding foundation trust boards to account we have seen good progress towards the delivery of the targets, without recourse to the use of our regulatory powers. Where trusts have demonstrated that they are not taking effective action, we have met them and required them to demonstrate that they fully understand risks and the impact of the actions they are taking.

Results on waiting time targets

The NHS in England – Operating Framework for 2007–08 introduced two measures to reflect the 18-weeks referral to treatment waiting times targets, which subsequently came into effect at the end of December 2008:

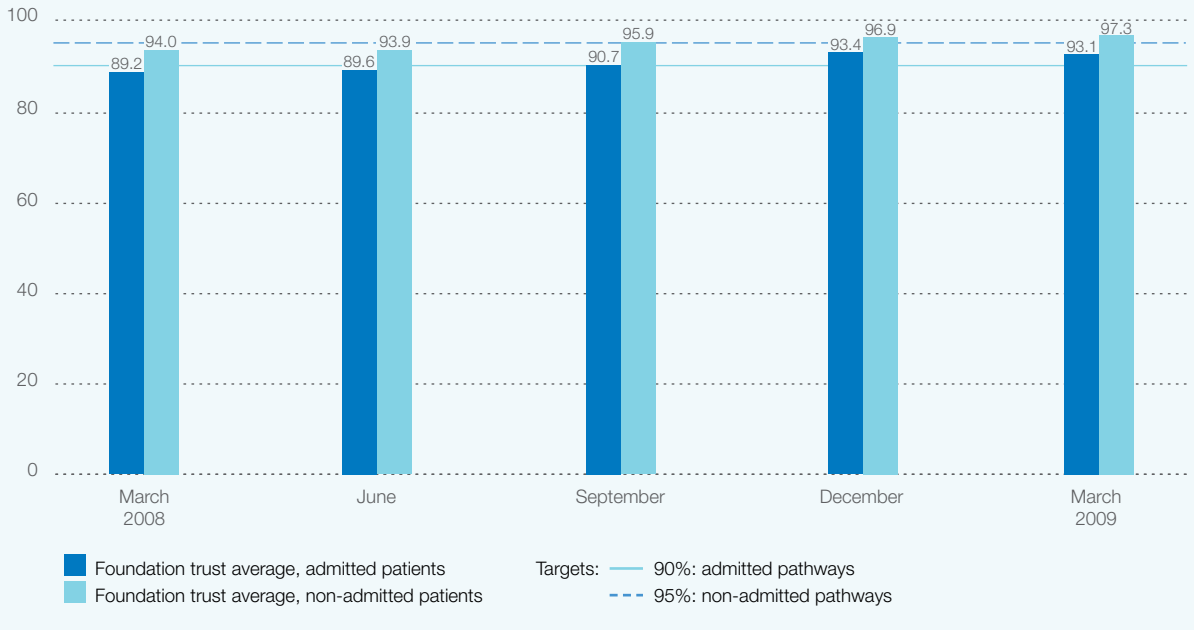
- 90% of pathways where patients were admitted for hospital treatment to be completed within 18 weeks; and
- 95% of pathways that did not end in admission to be completed within 18 weeks.

At 1 April 2008, 97% of NHS foundation trusts were on trajectory to meet the targets and, at 31 December 2008, 99% were meeting them.

99%

of NHS foundation trusts achieved the 18-weeks referral to treatment waiting times targets

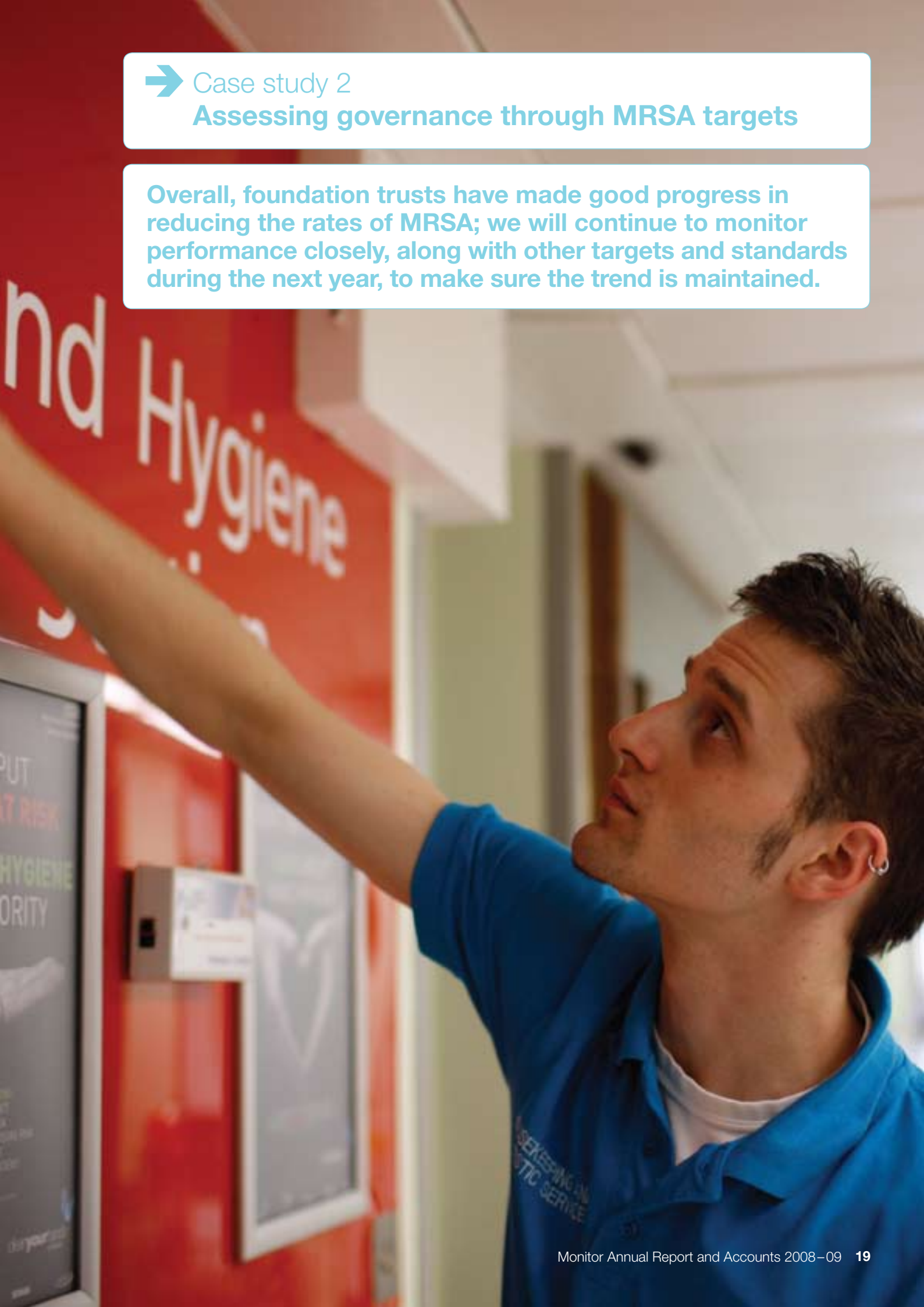
NHS foundation trust performance: 18-weeks referral to treatment waiting times (%)



Case study 2

Assessing governance through MRSA targets

Overall, foundation trusts have made good progress in reducing the rates of MRSA; we will continue to monitor performance closely, along with other targets and standards during the next year, to make sure the trend is maintained.



Case study 2 continued

The key to a successful, well-led NHS foundation trust is good governance.

Through our regulatory framework, we aim to satisfy ourselves that NHS foundation trust boards are discharging their responsibilities effectively. This is because we consider the board to be ultimately accountable for all aspects of their trust's performance and thereby ensuring they meet the terms of their authorisation. We use a range of indicators to assess the competency and skills of the board to deliver good governance, including performance against national healthcare targets and standards.

The target to achieve reductions in the incidence of MRSA has been one of the most challenging for the NHS. The requirement this target places on boards to plan and contract with their commissioners effectively; undertake risk analysis, agree, communicate and monitor compliance with agreed actions; and work in partnership with providers across a local healthcare economy, tests a range of governance skills within boards.

The forward-looking approach of our compliance framework is designed to identify at an early stage those trusts that are at risk of breaching their end-of-year targets for incidence of MRSA. This is so that boards can be held to account to demonstrate that they are taking effective action to tackle the problem quickly, improving their performance and avoiding significant problems in the future.

Where problems do occur, Monitor's compliance regime enables escalation of regulatory action in relation to healthcare acquired infection targets, such as MRSA reduction. The approach is not one of performance management; instead we expect trust boards to take action to rectify the issue. If a trust is at risk of breaching its full year target then Monitor will require it to deliver an action plan to resolve the issue within six months. If the trust fails to deliver the required results it will be required to attend a formal meeting with Monitor.

After this, if the trust continues to fail to demonstrate that it understands the action required to make sufficient progress, Monitor will determine whether it is in significant breach of its authorisation, and if so, whether to use our formal powers of intervention. We will only use our formal powers where it is likely that the actions we require will lead to improvement and result in a remedy of the issue.

During 2007–08 eight foundation trusts were found to meet our escalation criteria in relation to MRSA performance (see graph on page 21). Five were found to be in breach of their terms of authorisation. This was because they were unable to demonstrate that they were taking reasonable and effective action to recognise risk, and then address and mitigate this in an effective and timely manner. Further details are available on pages 23 to 26.

We made it clear to these trusts that we saw this performance as an indication of poor governance. Because these trusts were breaching their MRSA target we wanted assurances that the boards were taking action to get performance back on track, so we required them to agree a recovery trajectory.

In the third quarter of 2008–09, because of the actions they have taken, there were a significantly lower number of MRSA cases. None of the eight trusts which met our escalation criteria had exceeded their trajectories, and by the end of the year, those found to be in significant breach had been de-escalated to a lower risk rating, indicating that they were no longer in breach of their authorisation.

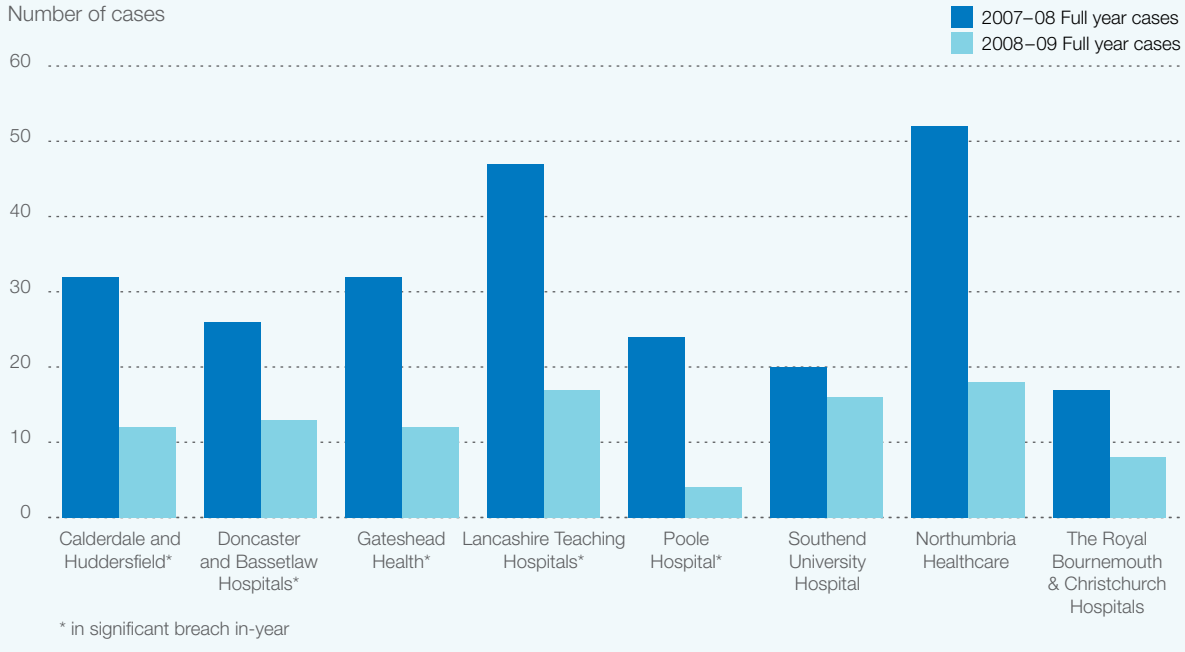
A further four foundation trusts, while they did not meet the escalation criteria, were considered to be at potential risk of breaching their authorisation in relation to their high rates of MRSA.

Following an independent audit of infection control compliance, and further meetings with two trusts, we were satisfied that appropriate action was being taken, averting the need for more formal action.

For 2008–09 these four trusts had achieved an overall reduction in MRSA cases of 56% against the previous year's performance at the end of December.

These results provide evidence that our approach with trusts where governance concerns related to MRSA performance was identified as a potential risk has encouraged trust boards to successfully address the issue without the need for direct formal intervention from Monitor. Overall, foundation trusts have made good progress in reducing the rates of MRSA; we will continue to monitor performance closely, along with other targets and standards during the next year, to make sure the trend is maintained.

MRSA performance in 2008–09 for the eight foundation trusts which met Monitor's escalation criteria in 2007–08



* in significant breach in-year

Decisive actions to deliver solutions

Our approach to concerns about foundation trusts' performance during the year has demonstrated how our formal process can contribute to the delivery of sustainable solutions. We do not hesitate to use our formal powers where needed.

During 2008–09 serious concerns regarding financial governance were identified at Royal National Hospital for Rheumatic Diseases NHS Foundation Trust. In August 2008 Monitor formally intervened to protect the provision of services, requiring the trust to resolve leadership issues, undertake an independent review of financial controls and review their cash forecasts. The trust completed these actions, and in November its board decided that a merger with another organisation was the best way to secure the long-term provision of its services. In December, Monitor intervened a second time to appoint an interim chair and director of corporate strategy and a third time in April 2009 to appoint an interim chief executive and a new interim chair. The trust is now progressing its strategic objective of a merger.

Monitor used its formal powers at Mid Staffordshire NHS Foundation Trust in early March 2009, prior to the publication of a Healthcare Commission investigation report into emergency care at the trust, in order to stabilise the trust and ensure it had a board capable of turning around the trust to deliver a good quality of care. We appointed a new interim chair and required the appointment of an interim chief executive, following the resignation of the chair and decision by the chief executive to stand down.

In addition, Monitor and the Secretary of State for Health jointly commissioned Professor Sir George Alberti to undertake a thorough assessment of emergency care at the trust, to provide assurance on the progress made in the trust and to make recommendations for further changes required; his report was published at the end of April 2009. The report recognised that significant progress has been made at the trust, but with further work still to be done. The trust has been required to design and deliver an action plan to address all recommendations.

Professor Alberti will continue to work with Monitor as an independent adviser on the trust's progress. In September 2009 (six months after the publication of the Healthcare Commission's report) the Care Quality Commission will undertake a review of progress against the trust's action plan and, six months later, undertake a further review to assess whether all the concerns in the report are being addressed effectively. We continue to work with the current interim leadership to ensure that high quality permanent appointments are made, the deficiencies highlighted by the reports are remedied and that, going forward, Mid Staffordshire NHS Foundation Trust recovers to be a provider of high quality services to its patients.

Regulatory actions in 2008–09

The majority of foundation trusts operated within their terms of authorisation in 2008–09. The table below summarises the instances where Monitor took regulatory action during the year. While only two trusts required the use of our formal powers of intervention, a number were deemed in significant breach of their authorisation at some stage in the year. A number of other trusts were either red-rated for governance risk or assigned a financial risk rating of 2, attending meetings with Monitor to discuss and address their respective issues.

A number of trusts presented issues concerning service performance or healthcare acquired infections which, while not representing a formal breach of authorisation or adverse change in the trust's regulatory risk profile, nevertheless required our attention.

Where appropriate, Monitor worked in partnership with other organisations, e.g. the Healthcare Commission, in resolving particular issues. Finally, where Monitor has concerns regarding the validity of the basis for boards' self-certification processes, we have the power to require trusts to review these processes.

Each quarter Monitor publishes an overview of the performance for the foundation trust sector, issues in individual trusts and the action Monitor is taking in each case. These reports are available on our website.

Foundation trust	Detail
Formal interventions	
Royal National Hospital for Rheumatic Diseases NHS Foundation Trust	Monitor formally intervened at the trust in August 2008, December 2008 and April 2009 – further detail is provided on page 22.
Mid Staffordshire NHS Foundation Trust	Monitor formally intervened at the trust in March 2009 – further detail is provided on page 22.
Foundation trusts in significant breach of their authorisation in 2008–09	
Gateshead Health NHS Foundation Trust	Monitor deemed the trust to be in significant breach of its authorisation due to governance concerns relating to its MRSA performance during 2007–08 and assigned it a red rating for governance risk in Q1 2008–09. Having demonstrated to Monitor that it had taken actions such that it would achieve its 2008–09 target, the trust was de-escalated to an amber rating for governance risk at Q4 2008–09.
Doncaster and Bassetlaw Hospitals NHS Foundation Trust	In 2007–08, Monitor deemed the trust to be in significant breach of its authorisation due to governance concerns relating to its MRSA performance and assigned it a red rating for governance risk in Q4 2007–08. Having demonstrated to Monitor that it had taken actions such that it would achieve its 2008–09 target, the trust was de-escalated to an amber rating for governance risk at Q4 2008–09.

Foundation trust	Detail
Poole Hospital NHS Foundation Trust	In 2007-08, Monitor deemed the trust to be in significant breach of its authorisation due to governance concerns, including but not limited to its MRSA performance and assigned it a red rating for governance risk in Q4 2007–08. Having demonstrated to Monitor that it had taken actions such that it would achieve its 2008–09 MRSA contractual target and having delivered a number of other key priority actions to address other governance concerns, the trust was de-escalated to an amber rating for governance risk at Q3 and further de-escalated to a green rating at Q4 2008–09.
Calderdale and Huddersfield NHS Foundation Trust	In 2007–08, Monitor deemed the trust to be in significant breach of its authorisation due to governance concerns relating to its MRSA performance and assigned it a red rating for governance risk in Q4 2007–08. Having demonstrated to Monitor that it had taken such actions to achieve its 2008–09 target, the trust was de-escalated to an amber rating for governance risk at Q3 2008–09. The trust was further de-escalated to a green rating for governance risk at Q4 2008–09.
Lancashire Teaching Hospitals NHS Foundation Trust	In 2007–08, Monitor deemed the trust to be in significant breach of its authorisation due to governance concerns relating to its MRSA performance and assigned it a red rating for governance risk in Q4 2007–08. Having demonstrated to Monitor that it had taken such actions to achieve its 2008–09 target, the trust was de-escalated to an amber rating for governance risk at Q3 2008–09. The trust was further de-escalated to a green rating for governance risk at Q4 2008–09
County Durham and Darlington NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule* at Q3 2008–09 for both MRSA and C. difficile and received a red rating for governance risk. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Subsequently the trust was found to be in significant breach of its authorisation in relation to governance concerns as to its HCAI performance and remained red rated at Q4 2008–09. Performance against the trust's MRSA and C. difficile contractual obligations in 2009–10 is now being monitored on a monthly basis. To the extent the trust fails to meet these again during the year, Monitor will consider the need for further regulatory action, which may include the use of its formal powers.
Northern Lincolnshire and Goole Hospitals NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule at Q3 2008–09 for MRSA and received a red rating for governance risk. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Subsequently the trust was found to be in significant breach of its authorisation and remained red rated at Q4 2008–09. Performance against the trust's MRSA contractual obligations in 2009–10 is now being monitored on a monthly basis. To the extent the trust fails to meet these again during the year, Monitor will consider the need for further regulatory action, which may include the use of its formal powers.
Aintree University Hospitals NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule at Q4 2008–09 for C. difficile and received a red rating for governance risk. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Subsequently the trust was found to be in significant breach of its authorisation and will remain red rated at Q1 2009–10. Performance against the trust's C. difficile contractual obligations in 2009–10 is now being monitored on a monthly basis. To the extent the trust fails to meet these again during the year, Monitor will consider the need for further regulatory action, which may include the use of its formal powers.

Foundation trust	Detail
Foundation trusts rated red for governance risk in 2008–09 (but found not to be in significant breach)**	
South Tyneside NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule at Q4 2008–09 for C. difficile performance and was assigned a red rating for governance risk. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Having met the trust and considered the actions the board is taking to address the underlying issues, Monitor deemed the trust not to be in significant breach of its authorisation.
Sherwood Forest Hospitals NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule at Q3 2008–09 for MRSA performance and was assigned a red rating for governance risk at Q3. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Having met the trust and considered the actions the board is taking to address the underlying issues, Monitor deemed the trust not to be in significant breach of its authorisation.
Tameside Hospital NHS Foundation Trust	The trust triggered Monitor's '3 ambers to red' rule at Q3 2008–09 for MRSA performance and was assigned a red rating for governance risk. This reflects a risk of failure to satisfactorily address issues relating to a national requirement, in this case reducing HCAI levels. Having met the trust and considered the actions the board is taking to address the underlying issues, Monitor deemed the trust not to be in significant breach of its authorisation.
Foundation trust rated 2 for financial risk	
Heatherwood and Wexham Park Hospitals NHS Foundation Trust	The trust suffered a material financial shortfall against its plans for the year. Monitor subsequently met the trust. The trust is preparing a recovery plan and Monitor will track progress against this.
Other examples of foundation trusts with compliance issues in 2008–09	
York Hospitals NHS Foundation Trust	As at August 2008, the trust's MRSA performance was significantly off trajectory (five cases against a Q2 2008–09 trajectory of two cases) and thereby met Monitor's rapid escalation criteria. Monitor met with the trust to understand the actions the board was taking to rectify the underlying problems. The trust was then required to provide Monitor with a HCAI action plan against which it was monitored on a monthly basis. The trust has reported one additional case of MRSA since September and, having demonstrated that it was on track to achieve its 2008–09 contractual target and that it had successfully implemented its action plan, the trust ceased to be subject to monthly monitoring from Q3 2008–09 onwards.
Colchester Hospital University NHS Foundation Trust	Colchester failed to meet the 18 weeks waiting time target for admitted patients in Q4 2008–09. In addition, there were a number of concerns around other service performance issues such as A&E and the Standardised Mortality Rate at the trust. Given the range of issues at this trust, which in aggregate has given rise to serious concerns that it is failing to meet the requirements of its authorisation, the trust commissioned an independent review of its wider clinical and board governance processes. The trust and its advisers will report the findings of that review, and its action plan to address any significant concerns, to Monitor in early July 2009.

Foundation trust	Detail
Birmingham Children's Hospital NHS Foundation Trust	In 2008-09, following a number of concerns relating to clinical safety at Birmingham Children's Hospital being raised by clinicians from University Hospitals Birmingham who provide tertiary surgery services at the hospital, the Healthcare Commission carried out a review. Its review did not identify any immediate risks to patient safety, but a number of areas for improvement were identified including the requirement to improve communication between the two trusts and with other stakeholders. Monitor worked closely with the Healthcare Commission and the trusts throughout the review and, following publication, to ensure that the trust, working with its commissioners and University Hospitals Birmingham, was putting appropriate action plans in place to remedy the issues highlighted. Subsequently, Monitor has met with the trusts and the PCT to ensure that the joint plans are being implemented appropriately and on a timely basis. Monitor will continue to meet on a monthly basis with Birmingham Children's Hospital, involving the commissioners as appropriate, to ensure that the plan continues to be delivered.
Foundation trust	**Detail**
Dudley Group of Hospitals NHS Foundation Trust	Following a significant deterioration in A&E performance during Q3 2008–09 Monitor required the trust to attend a regulatory meeting to set out the actions the trust was taking to remedy the issues. The trust's performance was monitored on a weekly basis for a period thereafter and when the expected improvement was not delivered Monitor held the trust board to account. Following this, the trust engaged external support and made some fundamental changes to how A&E services are delivered. The trust was not found to be in significant breach of its authorisation as it took the necessary actions to rectify its position during March 2009. However, governance concerns remained over the sustainability of the recent improvement in the trust's A&E performance and therefore the trust received an amber rating for governance risk at Q4 2008–09.
Other issues	
Self-certification	Monitor required three trusts to carry out self-certification reviews to address its concerns that at the annual planning stage boards may not have properly considered and received adequate assurance as to the risk of potential breach against their authorisation. The results of these reviews were published during the year and are available on our website.

* Monitor's 'three ambers to red' rule was introduced in the Compliance Framework for 2008–09 to address ongoing in-year risk of failure to rectify issues relating to NHS national requirements

** University Hospital of South Manchester, Gloucestershire Hospitals and Heatherwood and Wexham Park Hospitals were also rated red for governance risk at Q4 2008–09. Following meetings with each of these trusts Monitor will in due course determine whether or not they are in significant breach of their authorisations.

Refining the framework

The environment within which foundation trusts operate continues to evolve and we continue to refine our regulatory framework to reflect this. Our *Compliance Framework* was reviewed and updated during 2008–09 to reflect changes in the sector, including:

- the requirement for foundation trusts to be registered with the new Care Quality Commission;
- the introduction of International Financial Reporting Standards;
- arrangements for working with the new Co-operation and Competition Panel; and
- the introduction of ambulance trusts into the regulatory system (we expect to see applicants for foundation trust status towards the second half of 2009–10).

Using information

To carry out our compliance role it is crucial to ensure that we capture, analyse and share information and intelligence. As Monitor grows, its capacity to share this knowledge between staff members, teams and, as appropriate, other partners in the healthcare sector, will become increasingly important.

Where partners can provide valuable data we need to identify this, find out how best to acquire the information and capture it in a way that will assist us and them in assessing risk and performing our respective roles.

In order to ensure our systems are robust, we commissioned a review in October 2008 to assess our current information and data processes. This identified some short-term improvements such as increasing staff access to internal and external information, formalising the handover process for newly authorised foundation trusts between the assessment and compliance functions and a review of external data sources.

A knowledge management project has begun to establish an information system for the easy input and access of key data.

Our longer-term vision is to create a central information management system which will capture and store relevant information about trusts, and wider healthcare information, in an easily accessible way, enabling it to be analysed and shared throughout the organisation and with partners in the most efficient way possible. We are now working on an information strategy that will deliver this vision.

Proportionate regulation

Performance against 2008–09 business objectives

Business objective	Actions	Outcome
Develop *Compliance Framework* including early identification of potential issues	Consult on any proposed changes to the compliance regime to reflect development work on Monitor's approach to quality and governance	**Action completed** We consulted on an amended *Compliance Framework*, including additions to accommodate ambulance foundation trusts; changes in healthcare priorities in the *Operating Framework* for 2009–10; assurance as to information governance; induction programmes for newly appointed chairs and chief executives; and governor election turnouts
	Review approach to escalation of non-financial performance issues and develop a comprehensive intervention framework	**Action completed** We published our intervention and escalation approach for non-financial performance issues. These included detailed regulatory escalation for healthcare acquired infections (HCAIs), Accident & Emergency (A&E) and 18-weeks referral to treatment waiting times targets, as well as the general intervention philosophy. These were consolidated in the amended *Compliance Framework*
	Finalise the targets and standards to be included in the *Compliance Framework* to reflect the national requirements and priorities in the Department of Health's *Operating Framework 2008–09*	**Action completed** Targets and standards were updated in the amended *Compliance Framework* following consultation, including with the Department of Health
	Develop our compliance regime and relationship with commissioners to respond to the move towards local target setting	**Action completed** A programme has been agreed to build on progress in reporting and relationships with commissioners, and a *Briefing for Commissioners* has been published to provide guidance. This programme is in the process of being delivered, with benefits beginning to be realised by Monitor and commissioners
	Continue to develop our network of relationships with stakeholders, healthcare experts and other regulators and related metrics to ensure early identification and prediction of financial and non-financial performance risk and early rectification	**Action completed** Relationships with Department of Health advisers (18-weeks, A&E and HCAIs) have been developed to good effect. During 2008–09, Monitor and the Healthcare Commission (and other stakeholders) continued to work together on an informal and formal basis to share information and identify potential risks
	Develop the *Compliance Framework* to ensure a robust framework for the regulation of new forms of NHS foundation trust including potential ambulance NHS foundation trusts and community NHS foundation trusts	**Action completed** The amended *Compliance Framework* for 2009–10 incorporated metrics for ambulance foundation trusts. As and when required, it will be updated again to reflect the potential for community foundation trusts

Business objective	Actions	Outcome
Prepare compliance systems for growth in number and range of NHS foundation trusts	Continue to develop the compliance, monitoring and intervention processes and supporting IT infrastructure so that they are capable of dealing with up to 200 NHS foundation trusts (including different types of NHS foundation trust)	**Action in progress** Monitor continued to document its approach to a range of compliance issues, increase the size of its Compliance Team through recruitment and retention of experienced and skilled staff, and has established and is implementing escalation and delegation procedures. IT and central team support has continued to deliver efficiencies in our operations. Further recruitment of skilled resource is progressing
	Develop Monitor's processes and capacity to assess risk to meet the expected increase in the volume and complexity of corporate activity (for example, mergers and acquisitions)	**Action in progress** In 2008–09 we established and agreed our approval processes for a range of transactions
Successful intervention in event of any significant non-compliance with terms of authorisation	Apply the intervention framework in a consistent manner to ensure scalable, efficient and effective approach to intervention that secures the recovery of the NHS foundation trust as early as possible and, in any extent: • within six months for breaches of priority one targets; and • within two years for financial issues	**Action completed** We have applied the intervention framework both informally (i.e. not requiring the use of our formal powers) and formally. There have been relatively few financial issues in the year, but the approach to non-financial issues has proved effective, particularly with regard to governance concerns related to MRSA performance. When considered in the context of the contracted obligations of trusts which we have found to be in significant breach of their authorisation (five foundation trusts), the position has been rectified within six months
Ensure robust reporting for NHS foundation trusts	Review the impact of the implementation of International Financial Reporting Standards (IFRS) on Monitor's regulatory framework including financial risk ratings, the *Prudential Borrowing Code* and the *NHS Foundation Trust Financial Reporting Manual (FReM)*	**Action completed** We have completed this, and consulted on and published new metrics and guidance to reflect the introduction of IFRS from 2009–10, including the *Compliance Framework,* the *NHS Foundation Trust Financial Reporting Manual* and the *Prudential Borrowing Code*
	Undertake consultation on the interpretation and application of the private patient income cap	**Action completed** In 2008–09 we completed a consultation on the private patient income cap and then published a revised interpretation and guidance on its application within the *NHS Foundation Trust Financial Reporting Manual*

Developing a devolved system

During 2008–09 Monitor has continued to work towards its vision of a devolved system of healthcare, working with key partners to influence policy and push quality to the top of the agenda.

Working in partnership

The fact that NHS foundation trusts now make up the majority of acute and mental health providers makes it all the more important that we work effectively with key partners such as the Department of Health and the new Care Quality Commission. During the year we have strengthened relationships with stakeholders, working alongside them to develop initiatives and shape the environment within which foundation trusts operate.

Influencing policy

NHS Next Stage Review

We welcomed the *NHS Next Stage Review*, led by Lord Ara Darzi and published in June 2008. In particular, we very much supported the focus on putting quality at the heart of the NHS and greater involvement of clinicians in the leadership and management of services.

In July, we ran a workshop in partnership with the Department of Health for foundation trusts to encourage them to think about opportunities arising from the *NHS Next Stage Review*.

We are working with leaders across healthcare as a member of both the new National Quality Board, a body set up to drive the NHS quality agenda, and of the National Leadership Council, which aims to ensure that world-class leadership, talent and leadership development exists at every level of the NHS.

Reporting on quality

The *Next Stage Review* proposed a legislative requirement for all NHS healthcare providers to systematically measure and publish information about the quality of their services through quality accounts.

During the second half of the year, we worked with the Department of Health, Care Quality Commission and NHS East of England, publishing a joint consultation in February 2009 on the introduction of a quality report section into trusts' annual reports for 2008–09. The aim of the quality report is to help increase public accountability and engage foundation trust boards in their role as the drivers of quality. The report will be a forerunner to the introduction of statutory quality accounts in 2009–10, and lessons learned will help inform the Department of Health in drawing up the detailed provisions for these accounts.

Co-operation and Competition Panel

Monitor worked with the Department of Health to support the creation of the newly formed Co-operation and Competition Panel, which began its work in January 2009.

The Panel's role is to help ensure that application of the Principles and Rules of Co-operation and Competition for the provision of NHS-funded services supports the delivery of high quality care for patients and value for money for taxpayers.

The Panel has an advisory role and will make recommendations to either Monitor on the application of the Principles and Rules to foundation trusts or to the Secretary of State regarding commissioners or other NHS providers. The Panel's advice will cover mergers and acquisitions, the conduct of providers (for example potentially restrictive agreements between providers) and consideration of appeals from strategic health authorities on procurement and advertising. Our role will be to decide, based on the Panel's advice, how issues, in relation to NHS foundation trusts, should be resolved in the best interests of patients, service users and taxpayers.

From 2009–10, any directions Monitor may issue to trusts following advice from the Panel must be complied with as part of the terms of authorisation.

Developing foundation trusts

Developing the role of boards in quality

Monitor believes the involvement of clinicians in management and leadership is key to improving quality within NHS foundation trusts. In 2008 we formed the Medical Directors Advisory Group (MDAG) to advise our strategy on helping trust boards improve the quality of care their trusts provide.

During the year we worked with a group of eight trusts on the role of trust boards in leading quality improvements. The work will result in publications, including diagnostic tools, in 2009. More details about Monitor's work on quality can be found in the case study on pages 34–35.

Developing financial leadership

We have continued to offer the Strategic Financial Leadership Programme to finance directors, in conjunction with Cass Business School. The programme, which is the result of a collaboration between Monitor, the Department of Health and the NHS Institute for Innovation and Improvement, is designed to highlight the challenges facing NHS finance directors and equip them with tools to meet those challenges. The two-week course is designed to help them anticipate future changes in the health system and develop appropriate responses. To date almost 200 finance and deputy finance directors from the NHS have participated in the programme and the course has been well received. We will shortly be revising the content and curriculum and offering refresher material for those who undertook the programme in its early stages.

Support for non-executive directors

Working in partnership with the NHS Institute for Innovation and Improvement, the North West Academy and NHS East of England, we have developed a programme to help foundation trust non-executive directors understand their role more thoroughly and contribute more effectively to strategic decision making within their organisations. We appointed Manchester Business School and Cass Business School to pilot the programme from January 2009. The programme will be launched in summer 2009.

Service-line management

Monitor has an ongoing commitment to the promotion of service-line management as crucial to the delivery of effective healthcare services.

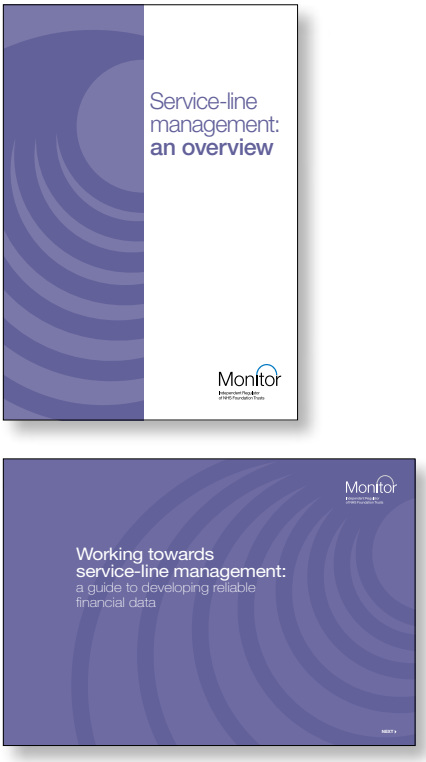
By identifying services or groups of services and managing them as distinct operational units, service-line management enables NHS foundation trusts to understand their performance and organise their services in a way which can benefit patients and service users and makes trusts more efficient. It also enables clinicians to take the lead on service development and drive improvements in patient care.

To date a large number of foundation trusts, including mental health trusts, have implemented service-line management or are working towards it. Those that have worked with us report practical and strategic benefits, including improved patient care, financial and strategic decision-making, and increased staff morale.

We have continued to develop the service-line management model. Working with a number of foundation trusts we have considered how they can improve patient satisfaction at the service-line level. This work has required organisations to think about how they interact with their patients in a fundamentally different way, and has allowed staff at all levels within the pilot organisations to help define what good patient service means for their individual service.

We have also promoted service-line reporting and management within the mental health sector, including work with South London and Maudsley NHS Foundation Trust and South Staffordshire and Shropshire Healthcare NHS Foundation Trust. This has involved helping them to allocate costs to individual areas of care, allowing for realistic negotiations between trusts and commissioners.

Our service-line management programme has been supported by events, workshops and seminars to highlight best practice and showcase local initiatives.



Monitor publications to promote and support service-line management

Case study 3
Driving quality improvements at board level

At Monitor we are committed to ensuring that NHS foundation trusts have robust governance systems and a solid financial foundation from which to deliver their services.

Monitor worked with its Medical Directors Advisory Group (MDAG) and with eight foundation trusts on a pilot programme to explore ways to increase boards' effectiveness in driving quality improvements.

The participating NHS foundation trusts were:

- Cambridge University Hospitals
- Frimley Park Hospital
- Wrightington Wigan and Leigh
- Doncaster and Bassetlaw Hospitals
- The Newcastle upon Tyne Hospitals
- University College London Hospitals
- King's College Hospital
- University Hospitals Birmingham

During the year, board members and clinical directors from each trust worked together to set aspirations and measurable goals for quality improvements in their trusts, focusing on safety, effectiveness and patient experience. These varied according to individual trusts' circumstances, and included goals such as reductions in hospital acquired infections, decreases in hospital cancelled appointments and improved mechanisms for patient feedback.

They developed short and long-term initiatives, tailored to their trust, to achieve these targets, as well as identifying the organisational and cultural changes required to support quality improvements.

The programme provided a valuable opportunity for trusts to come together and share good practice, test ideas and learn from one another. Emyr Wyn Jones, Medical Director at Doncaster and Bassetlaw Hospitals NHS Foundation Trust, says, "One of the great advantages has been the networking, sharing your experience, meeting people who are taking the same journey. We've picked up some hints, tips and methodologies from the other trusts, as well as consolidating the approach that we already had."

Participating trusts have already seen a shift in focus at board level, from simple changes such as making more time for quality discussions at board meetings, to more fundamental ones such as the development of a shared understanding of quality issues.

Ultimately, the aim of the programme is better care for patients, and Jag Ahluwalia, Medical Director at Cambridge University Hospitals NHS Foundation Trust, is positive about the improvements it will bring. "I hope patients will see a sustained and genuine commitment in the trust's response to critical issues such as healthcare acquired infections. We are keen to include patient reported outcomes in our quality account so these are there for all to see. I hope that this openness will encourage our patients to ask the trust more detailed questions and in turn further drive our performance."

The results of the pilot, which ended in April 2009, will be shared across the foundation trust sector through publications and events.

"I think it's galvanised our board into recognising that quality should be dealt with as seriously and as prominently as other aspects of board business such as finance, estates and other non-clinical elements."

Emyr Wyn Jones, Medical Director at Doncaster and Bassetlaw Hospitals NHS Foundation Trust

Developing a devolved system

Performance against 2008–09 business objectives

Business objective	Actions	Outcome
Contribute to policy development, supported by economic analysis, and assess its implications for NHS foundation trusts	Strengthen relationships with Department of Health, NHS leadership, HM Treasury and other health stakeholders	**Action completed** We have worked closely with the Department of Health (DH), other Government departments and the Care Quality Commission to develop our approach to regulation and ensure alignment with DH policy agenda. Joint work on quality reporting is a good example of partnership working, leading to a requirement for foundation trusts to introduce quality reports in 2008–09
	Contribute to policy developments as appropriate, supported by economic analysis, and assess their implications for NHS foundation trusts, including: • quality regulation, including the new regulator; • economic regulation, including tariff, competition policy and the capital regime; • local accountability, including the NHS Constitution; • *NHS Next Stage Review*; and • World Class Commissioning, contracting (including dispute resolution) and opportunities for NHS foundation trusts to deliver primary care services	**Action completed** • We are highly supportive of *High Quality Care for All* and pleased that a number of our key recommendations were included in the report. We have worked closely with DH and Care Quality Commission to develop proposals for quality reports, to be introduced in NHS foundation trusts ahead of the statutory quality accounts • Monitor and DH are joint sponsors of the newly created Co-operation and Competition Panel. The Panel helps ensure that the Principles and Rules of Co-operation and Competition for the provision of NHS-funded services support the delivery of high quality care for patients and value for money for taxpayers • Monitor has conducted a study to examine its impact on the healthcare sector. It is too early to assess the full extent of Monitor's impact, but this study provides some valuable early-stage insights, and provides Monitor with a framework for measuring its impact in future

Business objective	Actions	Outcome
Ensure Operating Framework incorporates the requirements of NHS foundation trusts	Ensure Monitor's annual planning cycle is aligned to the Department of Health's overall planning round, including: • influencing the development of the *Operating Framework* for 2009–10; and • supporting the Department of Health to achieve the most effective balance between regulatory and contractual requirements	**Action completed** We have worked successfully alongside DH to ensure that the *Operating Framework* and *Compliance Framework* provide a coherent and consistent set of requirements for NHS foundation trusts
Promote the development of professionally managed NHS foundation trusts	Work with partners to promote good practice guidance to governors including developing a view on their role and the contribution of members	**Action completed** During the year Monitor examined the roles and responsibilities of NHS foundation trust governors. This required interviewing chairs and governors about how governors were discharging their duties and how they could be assisted in their roles. Towards the latter part of the year Monitor produced a consultation document, *Guide for NHS Foundation Trust Governors: Meeting Your Statutory Responsibilities*, which sets out a number of best practice principles
	Work with partners to develop a programme for NHS foundation trust boards, including: • board role, competency definitions and selection guide; • board training, in particular for non-executive directors, medical directors and chairs; and • analysis of compliance with *Code of Governance*	**Action completed** During the year we designed a development programme for non-executive directors and appointed Cass and Manchester Business Schools to run four pilot programmes. The feedback has been positive and we will roll the programme out nationally from June 2009. Building on the success of this work, we will use key modules from the non-executive director programme to support further programmes for chairs and medical directors Compliance with the *Code of Governance* will be analysed following publication of foundation trusts' 2008–09 annual reports

Business objective	Actions	Outcome
Promote the development of professionally managed NHS foundation trusts	Promote the adoption of service-line management, by: • developing a balanced scorecard approach; • holding a national event; and • building an understanding of the key enablers including clinician incentives, information management and hospital economics	**Action in progress** During the year we ran additional service-line management pilots, including mental health and quality improvement (patient experience) modules. We supported this work with further publications, seminars and conferences, including a highly successful national conference attended by medical and clinical directors. We worked with pilot trusts to better understand how incentives can be used as part of a bigger performance management programme within organisations
	Work with partners to develop approach to supporting NHS foundation trusts on front-line quality/productivity improvement: • review NHS foundation trust sector performance; and • help establish appropriate leadership training for service-line managers	**Action in progress** We have been involved in a series of discussions with stakeholders to identify the best way to progress training for service-line leaders. We outlined our plans to various Royal Colleges and are working with the Academy of Medical Royal Colleges to develop an NHS Business Academy to help promote service-line management within the clinical community. Given the complexities of establishing such an Academy, we are involving all parties that have a legitimate interest in working with us to move forward this agenda. We will contribute to the developing productivity agenda in 2009–10
	Working with partners, continue to develop Monitor's contribution to managing quality, including: • NHS foundation trust boards' role in quality and corporate strategy; • encouraging innovative and high-performing NHS foundation trusts to set the pace; • events to share emerging good practice; and • Medical Directors Advisory Group	**Action completed** During the year, we piloted quality-related work in a number of acute and mental health trusts, specifically examining how patient experience might be improved We have established a Medical Directors Advisory Group and worked closely with it to develop our approach to quality. We have completed a project to support eight foundation trust boards to strengthen their role in managing quality including a self diagnostic tool, setting board ambitions and developing initial quality accounts

Clear and effective communications

As the NHS foundation trust sector grows and the part Monitor plays in regulating healthcare in England develops, clear communication about what we do and why is vital. The NHS is changing and we have an important role to play in explaining how a devolved healthcare system works and our role in regulating it.

The size of the foundation trust sector means, unsurprisingly, that the demand for information from Monitor has increased significantly over the last year. The volume of requests for information about our role and the performance of foundation trusts from members of the public, Members of Parliament and journalists has risen each month throughout 2008–09.

We constantly aim to improve the quality and the value of our communications in order to engage with the broad range of stakeholders who have an interest in the foundation trust sector and in our work.

Working with NHS commissioners

Monitor has had limited contact with primary care trusts (PCTs) in the past, and the results of a perception survey in 2007, backed up by interviews with PCT chief executives, showed that consequently PCTs on the whole had a poor level of understanding about our role and the issues they might usefully consider raising with us.

In our *2008/09 Business Plan* we identified communication with NHS commissioners, specifically PCTs, as a priority. We recognised that commissioning is both a crucial lever for quality improvement and vital to the success of the regulatory regime. We wanted to work more closely with PCTs to help us identify compliance concerns at an early stage.

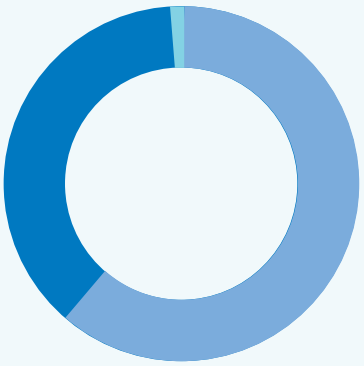
During the year we have worked to build up PCTs' understanding of our role and our relationship with them. We published a briefing document outlining our approach to regulation, and details about when and how PCTs can contact us with concerns about foundation trust performance which could develop into a breach of the foundation trust's authorisation.

We strengthened our links with the PCT Network, part of the NHS Confederation, which represents all PCTs in England and undertook a programme of speaking events to groups of PCT chief executives, finance directors and directors of commissioning across the ten strategic health authority regions.

As part of a wider programme of stakeholder engagement, Monitor's Board also spent time in the North West, the East of England and the North East meeting representatives from strategic health authorities, PCTs and foundation trusts.

The drive to improve awareness and build relationships with PCTs has shown results; an Ipsos MORI poll carried out in 2008 showed a significant increase in their understanding of Monitor's role. The number of respondents from PCTs saying they had a thorough or general understanding of our work increased from 65% in 2007 to 91% in 2008.

Understanding of Monitor



Parliamentary awareness

During the year we also focused our efforts on improving awareness of Monitor and the NHS foundation trust sector with members of both Houses of Parliament.

Research with a panel of parliamentarians revealed that the understanding of the foundation trust policy and of our role as regulator was low. We felt it was particularly important to achieve a greater awareness of foundation trusts' line of accountability to their members, commissioners, Monitor and crucially to Parliament.

To help address this we have customised key materials to give MPs a better understanding of the performance of foundation trusts in their region, and in particular whether any of the trusts in their area are considered to be high risk in terms of governance or financial issues.

As the proportion of foundation trusts has reached over half of the acute and mental health sector, parliamentary interest in and scrutiny of foundation trusts has increased.

During 2008–09 Monitor was called to present evidence to the Health Select Committee twice, once as part of their inquiry into foundation trusts and again on the issue of patient safety.

Alongside the Chief Executive of the NHS our Executive Chairman also acted as a witness to the Public Accounts Select Committee regarding NHS finance.

Monitor online

Monitor's new website was launched in January 2009, following a review which looked at how we could improve access to information and better meet the needs of our audiences. The final design and content was influenced by stakeholders who were asked to review the site before it was launched, with feedback sought again after the new site had been developed.

The result is an attractive, easy to use site that has been well-received by users. A post-launch survey showed that over 80% of respondents thought the website's appearance was good, very good or excellent and over 70% rated the content good, very good or excellent.

We will continue to evolve our online presence to meet the needs of our audiences and make the most of the interactive possibilities it offers.

Events

Our programme of events for foundation trusts and others in the health sector continued to expand during 2008–09. We have tried to add value to a busy health events calendar, by bringing knowledge and expertise not only from the NHS but also regulators working outside the health sector, parts of the private sector where there may be useful lessons to carry over and from international healthcare experts.

In February 2009 we ran a one-day conference for medical directors, clinical directors and lead consultants from foundation trusts and other NHS trusts. *From Consultant to CEO: putting clinical leadership at the heart of your organisation* supported Monitor's promotion of service-line management, attracting almost 350 senior clinicians. The event provided the opportunity to learn from a number of senior clinicians from the United States, Sweden and the United Kingdom and showcased practical case studies that demonstrated successful service-line management implementation across the NHS.

A further event in March, *Thrive or Survive?*, examined the demand-side and economic challenges shaping healthcare, their implications for medium and long-term strategy and the risks and opportunities for foundation trust development. Over 280 chairs, chief executives, finance directors and board members from existing and aspirant foundation trusts attended.

We will build on the success of these events, using the feedback we have received to create a programme that best meets the needs of a fast-moving sector.

Thrive or Survive? Event in March 2009 for NHS foundation trusts

Publications 2008–09

April 2008

Annual plan 2008–09: advice for NHS foundation trusts

May 2008

Business Plan 2008–09

Compliance Framework 2008–09

Identifying risk, taking action: Monitor's approach to service performance in NHS foundation trusts

June 2008

NHS foundation trusts: review of twelve months to 31 March 2008

Survey of foundation trust governors

Briefing for Commissioners

Developing the role of NHS foundation trust governors

Consultation on the interpretation and application of the Private Patient Income Cap

Consultation on updates to the NHS foundation trust financial reporting manual 2008–09 (FT FReM)

Guidance for NHS foundation trusts on co-operating with the National Programme for Information Technology (NPfIT)

July 2008

Monitor's annual report and accounts 2007–08

August 2008

Review of NHS foundation trusts' annual plans 2008–09

Consultation on amendments to the Financial Risk Ratings in the Compliance Framework 2009–10

NHS foundation trust Model Core Constitution

Consultation on an International Financial Reporting Standards based FT FReM for 2009–10

September 2008

NHS foundation trusts: review of three months to 30 June 2008

NHS Foundation Trust Financial Reporting Manual 2008–09 (FReM)

Summary of responses to Monitor's consultation on proposed amendments to the FReM 2008–09

October 2008

Quality Assurance Department review of the accounts of NHS foundation trusts for 2007–08

NHS foundation trusts: review and consolidated accounts 2007–08

NHS Foundation Trust Financial Reporting Manual 2009–10 (FReM)

Summary of responses to the Monitor consultation on proposed amendments to the FReM for 2009–10

November 2008

Applying for NHS foundation trust status: guide for applicants

December 2008

Monitor's response to the Private Patient Income Cap consultation

Consultation on amendments to the 2009–10 Compliance Framework

Consultation on amendments to the Prudential Borrowing Code

Summary of responses to Monitor's consultation on the proposed amendments to the Financial Risk Ratings in the Compliance Framework 2009–10

Overview of changes to the guide for applicants (November 2008)

NHS foundation trusts: review of six months to 30 September 2008

February 2009

Consultation on quality reporting in 2008–09 annual reports and accounts

Transactions Manual for providers and commissioners of NHS services

Guidance on year-end accounts process for NHS foundation trusts

Annual plan 2009–10: advice for NHS foundation trusts

Service-line management: an overview

March 2009

Summary of responses to Monitor's consultation on the proposed amendments to the Compliance Framework

Compliance Framework 2009–10

Clear and effective communications

Performance against 2008–09 business objectives

Business objective	Actions	Outcome
Deliver programme of communications to promote Monitor's messages to key stakeholders	Develop Monitor's relationship and communications with commissioners – primary care trusts, strategic health authorities and specialist commissioners – to build understanding of our compliance and intervention role and our focus on both finance and quality in NHS foundation trusts	**Action completed** A programme of communications aimed at commissioners – in particular primary care trusts (PCTs) – was carried out during the year. This included a briefing paper for PCTs. Presentations to PCT chief executives, finance directors and directors of commissioning took place across the regions, and we have built up a working relationship with the PCT Network
	Promote further take up of service-line management, with an increased focus on quality, to encourage greater clinical leadership. This includes engaging with clinical leaders and delivering a programme of events and media activity which highlight the quality and governance elements of service-line management and the impact it has had in pilot trusts	**Action completed** Service-line management (SLM) has continued to be the focus of many of our external communications including a significant number of speeches, presentations and media interviews. A major conference with 350 senior clinicians took place in February promoting SLM and, in particular, how SLM can be used to drive quality
	Promote learning arising from Monitor's recent survey of governors and development work with NHS foundation trust governors, members and non-executive board members	**Action completed** A report was produced summarising survey responses of 1,300 governors and the issues which emerged from the survey. We have presented to groups of governors in all ten strategic health authority regions through programmes run by the Foundation Trust Network and Foundation Trust Governors' Association
	Ensure stakeholders, including Parliament and those who have influence over the direction of health policy, understand Monitor's role, compliance regime and its effective contribution to the good management of health services	**Partially completed** In order to further engage MPs, we began to provide increasingly regionally customised material to promote MPs' understanding of Monitor's work and the foundation trusts in their area. We have dealt with increasing communications from MPs over the year and have been called to present to House of Commons select committees three times
	Deliver Monitor's influencing strategy successfully, working with key stakeholders and supporting the Executive Chairman by preparing presentations and speeches	**Action completed** We continue to develop relationships at senior level across policy and healthcare in order to pursue our objectives and work towards a more devolved healthcare system. We have increasingly systematised planning and feedback from engagement with key stakeholders, ensuring that we understand our objectives for each relationship. Our senior team has delivered a range of presentations and speeches this year, which promoted understanding of our work and core messages about the direction of policy and practice

Business objective	Actions	Outcome
Ensure that all statutory communication requirements are met	Publish *Review and Consolidated Accounts of NHS Foundation Trusts*, Monitor's *Annual Report and Accounts* and *the Prudential Borrowing Code*	**Action completed** All statutory documents (*Review and Consolidated Accounts of NHS Foundation Trusts*, Monitor's *Annual Report and Accounts* and *the Prudential Borrowing Code*) were published accurately and to time
	Maintain public register of NHS foundation trusts and review its accessibility as part of the redevelopment of our website	**Action completed** The public register has been maintained throughout the year and relaunched on our new website as the Foundation Trust Directory. The new site gives users clearer access to the range of information and documentation available on foundation trusts
Develop our internal communications programme to support the needs of staff	Build on our existing programme of internal communications, improving opportunities for two-way feedback across the organisation and developing processes to ensure that all staff are briefed on relevant policy and context issues	**Action completed** The internal communications programme has been extended to respond to requests for increased briefings on key internal decisions and more information on the external environment. In October 2008, monthly senior managers' briefings were introduced. These sessions, chaired by a member of the Senior Management Team, provide all senior managers with briefings following Monitor's Board meetings and information on key issues relevant to Monitor and foundation trusts in the external policy environment. A new section of the intranet has been added to provide staff with information on key topical issues relating to Monitor's work
Measure the effectiveness of communications	Undertake stakeholder research and media analysis to assess perceptions and track progress	**Action completed** We commissioned Ipsos MORI part way through 2008–09 to evaluate perceptions of Monitor's effectiveness with key stakeholders. We also looked in detail at MPs' understanding of Monitor and the foundation trust model

A high-performing organisation

Monitor has established itself as a small, effective organisation with a reputation for high professional standards. The positive feedback we receive from our stakeholders supports this. We continue to develop our staff and ensure our organisation is resilient and fit for purpose.

Measured growth

Monitor's success is dependent on its people. We aim to be an employer of choice in order to attract and retain talented individuals who can help us to continue to achieve our goals.

As the sector has grown – by 30% in 2008–09 from 89 to 115 NHS foundation trusts – we have remained a small and efficient organisation, while continuing to ensure the capacity and skills are in place to manage the corresponding increase in workload. The planned expansion of our staff continued during 2008–09, with numbers increasing from 83 to 94.

Monitor's staff profile

The following table gives an overview of staff employed at Monitor.

As at March 31 2009, Monitor had a 13% black and ethnic minority representation within the organisation. This was 12% in the previous six months.

In 2008–09, Monitor's average sickness absence per employee of 2.9 days compared favourably with the national average of 8 days and the public sector average of 9.8 days.

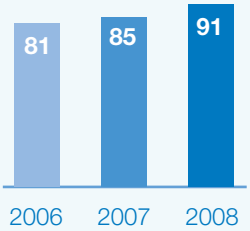
Our staff retention rate at 9.1% compares well with an average private sector turnover of 20.4% and average public sector turnover of 13.5% in 2008–09.

While it is difficult to identify the specific factors that have improved retention year-on-year, responses to the 2008 staff satisfaction survey suggest it is in part due to our staff's satisfaction with their work and the organisation.

Staff satisfaction survey

Since 2006 we have gathered feedback from staff about working at Monitor through an annual staff satisfaction survey. This enables us to benchmark results internally and against other organisations and identify priorities for improvement.

% of staff rating Monitor as a good or very good employer



	Female	Male	Average age	Staff turnover
2008–09	59%	41%	34.4	9.1%
2007–08	57%	43%	34.4	19.4%
2006–07	51%	49%	37	24.1%

In our *2006–09 Corporate Plan*, we set ourselves the target of 90% of staff rating Monitor as a good employer in 2009. We achieved this a year early – in the 2008 survey 91% of staff rated Monitor as a good or very good employer – a 10% increase since 2006 and a good result within the sector.

From the 2007 survey, a number of areas were identified as priorities for improvement. The majority of these focused on how line managers could support staff and recognition of individual contribution. All of these factors showed some increase in positive results in 2008.

Areas where staff satisfaction has decreased in 2008 include Monitor's communication to staff about wider health sector issues. While the overall satisfaction score for internal communications is still high, we recognise that our staff are hungry for knowledge about developments in the NHS and will continue our programme of knowledge sessions, staff briefings and improved intranet content to address this.

Developing our staff

Monitor's staff members are highly skilled, experienced and enthusiastic. This view is confirmed by our stakeholders. In a 2008 survey, 83% of key NHS stakeholders said that our organisation had high quality staff (see page 56 for more details of our stakeholder perception survey).

We continue to devote significant resources to supporting the development of our staff. All Monitor staff are offered a range of development opportunities including support for formal, professional development, higher education qualifications, participation in annually updated training programmes and attendance at knowledge sessions led by external health sector experts.

Our annual Continuous Professional Development Programme, for staff in the compliance and assessment teams, took place in December 2008. Each year the programme tackles different topics selected to reflect current issues in healthcare. This year's programme included the implications of Care Quality Commission registration and the impact of International Financial Reporting Standards (IFRS) implementation. Many of the sessions were presented by staff members, acknowledging their role as 'internal experts' on subjects ranging from the *NHS Operating Framework* to Monitor's *Code of Governance*. By sharing their knowledge of specialist areas they were able to enhance colleagues' understanding of different aspects of Monitor's work.

We are keen to provide alternative ways for staff to develop their skills and broaden their experience. This includes horizontal moves within the organisation, promotion and opportunities to act up into more senior roles.

We also continue to offer internal and external secondment opportunities. This enhances our links with partner organisations as well as providing individuals with new skills and experience and a different perspective on Monitor's functions. Secondees have worked during the year at the Prime Minister's Delivery Unit, HM Treasury and within the NHS.

A rotation scheme has been introduced across our assessment and compliance functions. This initiative allows staff from both teams to transfer into a different core function, enabling them to learn about the organisation from a different perspective, gain a deeper understanding of Monitor's work and develop their skills, as well as allowing flexible resourcing.

An evolving culture
We are committed to developing our management approach to one that will empower staff increasingly to make their own decisions. To achieve this, during 2008–09 we ran a number of workshops to equip our line managers to use coaching as part of their management style.

Any change of this nature will take time to embed, but strong foundations have been laid for 2009–10.

A sound infrastructure
As the organisation and its remit grows, it is vital to ensure that our support systems are resilient and have the capacity to deal with increased demand. Following a review of our IT infrastructure and applications, updated systems have been installed across the organisation. Monitor's financial accounting software has been upgraded to ensure that we are able to meet the requirements of the new International Financial Reporting Standards.

Sustainability in the workplace
Monitor is serious about its responsibility to promote environmental sustainability. During 2008–09, an environmental impact assessment showed that we were already adopting best practice in a range of areas. We are committed to reducing our impact on the environment and have introduced video conferencing to reduce travel, improved and expanded recycling facilities, supported staff to purchase cycles through the Government's Ride 2 Work scheme, and reduced paper consumption per head.

Legal compliance
Identifying and managing legal risk is key to the reputation of Monitor and to our ability to deliver our statutory functions. Just as Monitor requires NHS foundation trusts to be legally compliant, so we too must ensure that all of our operations and activities are legally sound.

Last year, we were served for the first time with judicial review proceedings. The trade union UNISON challenged us on the rules we set out in our *NHS Foundation Trust Financial Reporting Manual* relating to the limit to private patient income which NHS foundation trusts are permitted to generate. These rules determine what is known as the private patient income (PPI) cap.

The court deferred the proceedings while Monitor carried out a public consultation on the interpretation, application and consequences of applying the law in different ways.

The results of the consultation, which ran for 12 weeks, helped to inform the decision made by Monitor's Board in November 2008 that the relevant proportion of income arising from private patient charges for goods and services provided by joint venture and associate arrangements would count towards the PPI cap. This was a change to our previous position.

Still dissatisfied with Monitor's interpretation, UNISON reactivated the deferred legal proceedings in January 2009, and the case is likely to be heard before the end of 2009.

Case study 4
Empowering and developing staff

"It has been a big cultural change," says Stephen, "but the investment Monitor has made has been recognised and is valued."

As a high-performing organisation, Monitor recognises the importance of investing in its people so that they can excel in their roles.

Stephen Dodd, Senior Assessment Manager, joined Monitor just over a year ago. He and his team assess healthcare providers that wish to become foundation trusts, ensuring that they are well governed, financially viable and legally constituted.

Stephen was attracted to Monitor because of the opportunity it offered to work alongside the NHS in a setting which also has many characteristics of the private sector. "Monitor is staffed by professionals and there is a good supportive culture," he says.

Monitor encourages staff to develop both inside and outside the organisation. The rotation scheme between assessment and other functions is one example of this. "Members of my team can work for a period of six months to a year in the compliance or strategy team, offering them the chance to develop and broaden their experience and knowledge. It can also lead to new career opportunities within Monitor."

Staff are also supported to take up external secondment opportunities. "A member of my team who has worked at Monitor for four years is currently on secondment with a strategic health authority. This was an opportunity for him to pursue his interests and it will also broaden his skills for the benefit of Monitor in the future."

As a manager, Stephen agrees that it is in Monitor's interests to motivate and challenge staff in order to retain high-calibre individuals. "Monitor is relatively small and career development therefore needs to be approached creatively," he says. "Initiatives such as rotation and secondment mean that staff aren't limited within the function that they join."

The introduction of a coaching style of management has been a key change at Monitor during the year. Stephen says, "Coaching has been introduced in recognition of our growth from what was effectively a small start-up body to an established, larger organisation. It is a move away from a more directive style of management to one that gives staff more ownership and encourages them to take responsibility for their area of work."

As well as empowering individuals, the coaching culture will benefit Monitor as an organisation. Stephen comments, "We frequently have new staff coming in, and in order to maintain the integrity of our assessment work we need to bring them up to speed very quickly. Coaching has an important role to play in this. It will also provide a sustainable organisation that does not rely on a few key individuals."

"It has been a big cultural change," says Stephen, "but the investment Monitor has made has been recognised and is valued."

A high-performing organisation

Performance against 2008–09 business objectives

Business objective	Actions	Outcome
Attract and retain talent to support an expanding organisation and create a mature, smarter and stronger organisation	Identify future people/skills requirements to increase capacity and capability across the organisation	**Action completed** Six new posts were identified and appointed to during the year
	Extend recruitment mechanisms and improve marketing of opportunities with Monitor	**Action completed** A new recruitment brochure has been designed and produced. We have increasingly used online advertising this year
	Ensure the retention of our high-performing staff through delivery of The Deal and by rewarding high-performance	**Action completed** Our staff turnover has reduced from 19.4% in 2007–08 to 9.1% in 2008–09
Drive and deliver high-performance	Implement a three-year improvement plan to develop the performance management framework including a skills/ behaviour framework and 360 degree feedback	**Action completed** Our new *Competency Framework* for staff has been designed and launched
	Adopt a coaching culture to provide a climate for effective performance management dialogue	**Action completed** A comprehensive coaching training programme was established for managers. Coaching workshops were held for staff
	Engage staff with implementation of staff survey priorities for improvement	**Action completed** Staff focus groups were held during the year. Priorities and action plan are being implemented
Implement training and development programmes to equip staff for now and the future	Support managers and staff to develop the necessary skills to operate effectively	**Action completed** An in-house corporate training programme has been delivered. A three-day Continuous Professional Development technical update forum was held. A range of expert Knowledge Sessions were organised
	Provide tailored personal development plans for senior managers including external coaching support	**Action completed** Executive coaching was made available for senior managers. Personal plans were put into place for members of the Senior Management Team to increase their visibility and contact with staff outside their own teams
	Develop staff to stretch their role through maximising their potential and preparing for promotion opportunities	**Action completed** Project work, external secondments and internal secondments/rotations have been made available to staff

Business objective	Actions	Outcome
Ensure a legally compliant organisation	Provide legally sound advice to the Board, Senior Management Team and all operational areas	**Action completed** Statutory intervention and ongoing judicial review proceedings required significant legal input during the year
	Identify and manage all legal risks appropriately	**Action completed**
Maintain financial balance against Monitor's operating budget	Maintain robust internal financial control procedures to ensure that annual financial balance is achieved	**Action completed**
Provide efficient and value for money facilities and IT services to support an expanding organisation	Continue to improve IT infrastructure to enhance performance and support	**Action completed** IT structure has increased capacity and additional resilience. Key systems have been upgraded and developed to ensure compatibility with IFRS
	Utilise existing accommodation effectively to respond to the scaling up in resource and identify alternative options as required	**Action completed** The available office space has been better utilised to accommodate the increase in the number of workstations and the reorganisation of the staff seating plan
	Ensure products and services are environmentally responsible and demonstrate value for money	**Action completed** A range of initiatives introduced, e.g: • Ride 2 Work scheme; • video conferencing; • recycling systems extended; and • review of supplier contracts undertaken and value for money demonstrated

Looking forward

In our *Corporate Plan* for 2009–12, we have identified priority actions for 2009–10, which will be critical to progressing our three year strategies.

These are:

- continue to develop Monitor's regulatory regime to regulate an **increasing number and different models** of NHS foundation trusts;
- **manage the risk of more performance issues** as the NHS foundation trust sector grows, competition increases and the financial environment becomes more challenging;
- work with the Care Quality Commission to develop and consult on **governance indicators** for 2010–11 to ensure that these remain effective at assessing whether NHS foundation trusts are well governed;
- **work in partnership with the Department of Health and the Care Quality Commission to regulate the healthcare system**, in particular clarifying the required standards of quality and holding providers effectively to account;

- deliver our role in **enforcing the Principles and Rules of Co-operation and Competition in the NHS foundation trust sector**, making sound decisions on competition issues in response to the Co-operation and Competition Panel's recommendations and enforcing these appropriately;

- work with the Department of Health, the Foundation Trust Network and strategic health authorities to support the **development of the pipeline of applicant trusts** for NHS foundation trust status;

- **maintain the high standards** we expect of applicant trusts to make further progress towards establishing all eligible trusts as NHS foundation trusts which are legally constituted, well governed and financially robust;

- work with others to promote the development of well-led NHS foundation trusts, building the **organisational capacity of boards and senior management teams to lead quality improvement**; and

- continue to improve as a high-performing organisation, ensuring that we have **effective knowledge management systems** in place and that **decision making is delegated appropriately**.

Measuring Monitor's impact and value

As a regulator, it is important that Monitor assesses the value it brings to the healthcare sector and understands its performance year-on-year. Learning how others see us and evaluating our strengths and weaknesses is key to our improvement and development.

Stakeholder perception survey
This year we asked Ipsos MORI to repeat a perception survey which aims to find out what our stakeholders think of Monitor and their understanding of our role.

Ipsos MORI carried out 38 in-depth qualitative interviews with senior stakeholders including representatives from foundation trusts, strategic health authorities, primary care trusts, our partner organisations and the media.

They also undertook 254 quantitative telephone interviews with board members and senior staff from foundation trusts, NHS trusts and primary care trusts.

The 2008 survey showed continuing broad support for the foundation trust model, for Monitor's role and the quality of our work. The percentage of stakeholders who said that they thought we carry out our functions very well has risen from 34% in 2006 to 56% in 2008 (with an additional 42% stating that we carry them out fairly well and 2% stating not well).

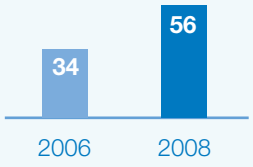
Understanding of Monitor's role has increased considerably, with 64% of respondents saying that they have a thorough understanding of our work compared with 37% in 2006. This increase was most notable in respondents from primary care trusts.

However, when asked about Monitor's weaknesses, the most common themes were around our ability to work well in partnership with others and continuing lack of understanding about the roles of different regulators in the system. We have made both these issues a key focus of our *Corporate Plan* for the next three years.

Stakeholders were positive about the impact we are making in the sector. The survey showed that 86% of respondents strongly agree or tend to agree that Monitor had made a positive impact on their organisation, and the same proportion believe that Monitor adds value to the healthcare system.

Evaluating Monitor's impact
Like other regulatory bodies, Monitor is under a legal obligation to ensure that it carries out its functions economically, efficiently and effectively. As the foundation trust sector has now reached a significant size, it is appropriate and feasible for us to supplement the stakeholder perception survey. In 2008–09 we launched a project to help improve our understanding of the impact that our core functions of assessment and compliance have on the foundation trust sector.

% of stakeholders who think Monitor carries out its functions very well



The project has used a combination of analytical case studies and econometrics to attempt to measure the impact of Monitor's regulatory regime.

Undertaking this type of analysis is a challenge in the foundation trust sector as almost half of NHS foundation trusts have been authorised for less than two years. In addition, the NHS has been historically poor at developing and using metrics in relation to quality of care which would allow systematic measurement of the impact of changes to the way care is managed or regulated.

The study has however found that Monitor has had a positive impact on the foundation trust sector and we will be publishing the results in full later in 2009.

We will be bringing forward proposals for an economic evaluation programme during 2009–10. This will build on the initial impact study.

Monitor's annual planning cycle

These pages describe Monitor's annual planning cycle. This complements the timeline for annual planning and monitoring contained in our *Compliance Framework*.

Quarter 1

April	Publication of the *Compliance Framework*
	Publication of *Annual plan: Advice for NHS Foundation Trusts*
	Board decision on applicant trusts
May	Publication of Monitor's *Business Plan*
	Board decision on applicant trusts
June	Publication of *NHS Foundation Trusts: Review of Year Ended 31 March* (Quarter 4)
	Board decision on applicant trusts

Quarter 2

July	Publication of Monitor's *Annual Report and Accounts*
	Publication of *NHS Foundation Trusts' Consolidated Accounts*
	Board decision on applicant trusts
August	Publication of *Review of NHS Foundation Trusts' Annual Plans*
	NHS foundation trusts' annual reports and plans published on Monitor's website
September	Publication of *NHS Foundation Trusts: Review of Three Months to 30 June* (Quarter 1)
	Board decision on applicant trusts

Quarter 3

October	Publication of *Report on the Audits of NHS Foundation Trusts' Annual Accounts*
	Board decision on applicant trusts
November	Publication of consultation on proposed amendments to the *NHS Foundation Trust Financial Reporting Manual*
	Board decision on applicant trusts
December	Publication of *NHS Foundation Trusts: Review of Six Months to 30 September* (Quarter 2)
	Publication of *Consultation on the Compliance Framework*
	Publication of *NHS Foundation Trust Financial Reporting Manual*

Quarter 4

January	Board decision on applicant trusts
February	Board decision on applicant trusts
March	Publication of *NHS Foundation Trusts: Review of Nine Months to 31 December* (Quarter 3)
	Board decision on applicant trusts

Management commentary

The Board

These accounts reflect the operations of the Independent Regulator of NHS Foundation Trusts (Monitor). Monitor is responsible for authorising, monitoring and regulating NHS foundation trusts and was established in January 2004 under the Health and Social Care (Community Health and Standards) Act 2003. The provisions of that Act were repealed on 1 March 2007 and re-enacted on that date in a consolidating Act, the National Health Service Act 2006. Monitor is accountable to Parliament and independent of Government.

In accordance with the provisions of Schedule 8 of the National Health Service Act 2006, these accounts have been prepared in a form directed by the Secretary of State. These accounts cover the year ended 31 March 2009.

Dr William Moyes
(Executive Chairman)

Dr Moyes has been in post since January 2004. He was reappointed as Monitor's Executive Chairman for a period of two years from 1 February 2008. He is also Monitor's Accounting Officer.

Dr Moyes was previously Director-General of the British Retail Consortium from 2000 to 2003 and Head of the Infrastructure Investments Department at the Bank of Scotland. He joined the British Linen Bank (a wholly owned subsidiary of the Bank of Scotland) in 1994. Before that, he held a variety of posts in the Scottish Office, including Director of Strategy and Performance Management in the Management Executive of the NHS in Scotland. He joined the Civil Service in 1974 in the then Department of the Environment and was a member of the economic secretariat in the Cabinet Office between 1980 and 1983.

In July 2008 he was appointed as a lay member of the newly created Legal Services Board. Dr Moyes is also a trustee of the Nuffield Trust, a member of the National Leadership Council for the NHS and a member of the National Quality Board.

Mr Christopher Mellor
(Deputy Chairman)

After an initial three-year appointment from May 2004, Mr Mellor was reappointed to Monitor's Board from 10 May 2007, for a period of four years. He is Chair of Monitor's Audit Committee, Remuneration Committee and Nominations Committee.

Mr Mellor is also Non-Executive Chairman and Acting Chief Executive Officer of Northern Ireland Water and is Senior Independent Non-Executive Director of Grontmij UK Ltd, the consultant engineering firm. He retired as Chief Executive of Anglian Water Group plc in March 2003, after 13 years with the company. Previously he was a Non-Executive Director of Addenbrooke's NHS Trust between 1994 and 1998, where he was Chair of the Audit Committee. Mr Mellor was also a member of the Government's Advisory Committee on Business and the Environment.

Ms Jude Goffe
(Non-Executive Director)

After an initial four-year appointment from July 2004, Ms Goffe was reappointed to Monitor's Board from 8 May 2008 for a period of four years. She is a member of Monitor's Audit and Remuneration Committees.

A venture capital and corporate adviser, Ms Goffe is also a trustee of the King's Fund. She has previously served as a Non-Executive Director of the Independent Television Commission and a Non-Executive Director of Moorfields Eye Hospital NHS Trust from 1994–2004. Ms Goffe also chaired the Trust's Audit and Commercial Services Committees and was a member of its Remuneration Committee. Between 1984 and 1991 she was employed by the 3i Group plc in a number of investment roles, culminating in the position of Investment Director. Ms Goffe is a chartered accountant by profession.

Mr Stephen Thornton
(Non-Executive Director)

Mr Thornton joined Monitor on 1 October 2006 and has been appointed for three years.

Mr Thornton is Chief Executive of The Health Foundation, which is an independent healthcare charitable foundation working to improve the quality of healthcare in the UK, and is a member of the National Quality Board.

He has held various senior executive NHS management and board positions over the last 15 years. He was Chief Executive of Cambridge & Huntingdon Health Authority from 1993 to 1997, and Chief Executive of the NHS Confederation from 1997 to 2001. He was a Commissioner on the Board of the Healthcare Commission from February 2004 until July 2006.

Baroness Elaine Murphy
(Non-Executive Director)

Baroness Murphy joined Monitor on 1 July 2006 and has been appointed for four years.

Baroness Murphy is a clinician by background and was Professor of Old Age Psychiatry at UMDS Guy's and St Thomas' Hospitals from 1983 to 1996. At the time she also held an NHS general management position. Over the last 12 years she has held a number of executive/non-executive board positions covering a wide range of areas including the voluntary sector and the Mental Health Act Commission. She was Chair of the North East London Strategic Health Authority until 30 June 2006. She is also Chair of St George's Medical School and sits in the House of Lords as a crossbencher.

The Senior Management Team

Dr William Moyes
(Executive Chairman)

In his role with the Senior Management Team, Bill is ultimately responsible for the delivery of the agreed *Business Plan* within the budget allocated by the Department of Health, and for ensuring that Monitor's governance standards and processes are not breached. His role is primarily to ensure Monitor's business processes are adhered to and internal management conform to the policies and standards set by the Board.

Stephen Hay
(Chief Operating Officer)

Stephen is responsible for the regulatory operations of Monitor. This covers the assessment and authorisation of applicants for foundation trust status, monitoring the compliance of authorised NHS foundation trusts and managing intervention where required.

Adrian Masters
(Director of Strategy)

Adrian's role is to ensure that Monitor develops a regulatory policy that enables foundation trusts to innovate and deliver better healthcare for patients. This includes contributing to those areas of wider healthcare reform which impact on foundation trust performance.

Kate Moore
(Director of Legal Services)

Kate provides legal advice to the Board and the Senior Management Team on delivering Monitor's functions within the powers laid down in the National Health Service Act 2006. This includes providing input into the legal aspects of the application, monitoring and intervention processes and ensuring that Monitor is legally compliant in all of its operations.

Janet Polson
(Director of Human Resources and Corporate Services)

Janet is responsible for providing a comprehensive human resources (HR) function within Monitor. This includes HR operations, resourcing, organisational development and people development. Janet advises the Senior Management Team on adopting best HR policies and practices. She is also responsible for IT services and overseeing the provision of the back office corporate support services.

Rebecca Gray
(Director of Public Affairs and Communications)

Rebecca is responsible for communicating with our stakeholders, including Parliament, Government, patients, the public and the media. She is also responsible for internal communications within Monitor, brand management, publications and Monitor's website.

Management report

Employment

A number of employment policies have been developed and Monitor will continue to enhance and develop all aspects of staff employment arrangements. The policies have been developed to ensure compliance with the law, embrace good practice and address diversity. The organisation is committed to equal opportunities. It is opposed to all forms of discrimination, whether intended or unintended.

Staff survey

Monitor conducts a survey every year which aims to measure staff satisfaction over time and identify priorities for improvement. In the 2008 survey, 90% of staff rated Monitor as a good or very good employer.

Sickness absence

The average time taken as sick leave by Monitor employees in 2008–09 was 2.9 days (2007–08 2.8 days).

Environmental impact

In 2008, Monitor commissioned an environmental impact assessment, which concluded that Monitor's overall environmental impact was low. However, it also identified opportunities for improving environmental performance. This has formed the basis of Monitor's recently published environmental impact policy, which includes performance improvement targets in relation to energy use, waste generation and paper usage.

Since 2007 Monitor has operated a ride to work scheme to encourage employees to travel to work by bicycle.

Pension liabilities

The treatment of pension liabilities is disclosed in Note 1 to the financial statements.

Health and safety

Monitor complies with all relevant legislation concerning health and safety at work and is committed to ensuring that safe working conditions are provided for employees, contract staff and visitors.

Statement of payment practices

Unless the amounts charged are considered to be incorrect, Monitor has adhered to its policy to pay suppliers in accordance with the Better Payments Practice Code for the year ended 31 March 2009. During this financial year, outturn against the target to pay all invoices within 30 days of the invoice date was as follows.

Total number of invoices	2,376
Invoices meeting target	2,145
Percentage meeting target	90%

Exceptions generally occurred because of disputes or delays in the receipt of invoices.

Register of interests

A register of interests of Board members is maintained by the Secretary to the Board and is available on Monitor's website.

Management of information risk and personal data related incidents

Monitor seeks to minimise the risk of a serious untoward incident arising from the misuse of personal or sensitive data. To this end, Monitor has an Information Risk Policy and Information Charter to identify and manage Monitor's exposure to risk in relation to any information it compiles or stores.

There were no incidents of personal data being lost or stolen in 2008–09, reportable to the Information Commissioner's Office or otherwise, or in any previous years of Monitor's operations.

Audit

The auditor of Monitor is the Comptroller and Auditor General. Details of the audit fee for the year ended 31 March 2009 are disclosed in Note 3 to the Financial Statements. In addition to the statutory audit of the financial statements, the Comptroller and Auditor General will be auditing the consolidation of the accounts of NHS foundation trusts for the year ended 31 March 2009, the fee for which is £51,750.

Accounting Officer's disclosure to the Auditors

So far as the Accounting Officer is aware, there is no relevant audit information of which Monitor's auditors are unaware. The Accounting Officer has taken all steps necessary to make himself aware of any relevant audit information and to establish that Monitor's auditors are aware of this information.

Financial position

Monitor's net expenditure for the year was £14,523,000 (2007–08: £12,908,000). Staff costs represent 55% of total expenditure at £8,036,000 (2007–08: £6,539,000). Other operating costs include property, consulting and office expenses.

Grant-in-aid of £15,674,000 was received during the year of which £395,000 was applied to the purchase of fixed assets.

Net assets at 31 March 2009 were £3,373,000 (31 March 2008: £2,222,000).

A comprehensive review of Monitor's activities, performance against business objectives during the year and its plans for the future are set out on pages 1–59 of this report.

Governance disclosure

Introduction

In managing the affairs of the organisation, the Board of Monitor is committed to achieving high standards of integrity, ethics and professionalism across all of our areas of activity. As a fundamental part of this commitment, we support the highest standards of corporate governance, within the limits of statute.

Board of Monitor

Board composition

The Board has five members: the Executive Chairman and four non-executive directors. This composition is determined by the relevant provisions of the National Health Service Act 2006, which state that the regulator is to consist of a number of members (but not more than five) appointed by the Secretary of State. One of the members must be appointed as chairman and another as deputy chairman. No individual or group of individuals dominates the Board's decision making. Collectively, the non-executive directors bring a valuable range of experience and expertise as they all currently occupy, or have occupied, senior positions in the healthcare sector, in industry and public life.

While the members of Monitor's Senior Management Team other than the Executive Chairman are not members of the Board, they attend Board meetings as a matter of routine and make presentations on the results and strategies of their respective directorates.

The role of the Board

The Board has responsibility for the overall management and performance of the organisation and the approval of its long-term objectives. It is responsible for ensuring that any necessary corrective action is taken promptly to ensure our objectives are met.

The Executive Chairman

Dr William Moyes is our Executive Chairman. The Board has agreed that he will be separately appraised on the Chairman and Chief Executive elements of his role.

As Chairman of the Board, his role is to:

1. lead the Board;

2. ensure that it has the information and advice needed to discharge its statutory duties;

3. ensure that the Board adheres to high standards of corporate governance; and

4. be the public face of Monitor, leading its influencing and public activities.

In his role as Chief Executive, he is ultimately responsible for the delivery of the agreed *Business Plan* within the budget allocated by the Department of Health, and for ensuring that Monitor's governance standards and processes are not breached. His role is primarily to ensure that Monitor's business processes and internal management conform to the policies and standards set by the Board.

The Board conducted a formal appraisal of the Chairman and Chief Executive elements of the Executive Chairman's role during the year. The appraisal was led by the Deputy Chairman and Senior Independent Director.

The non-executive directors

Independence

All of the non-executive directors are independent of management and have no cross-directorships or significant links which could materially interfere with the exercise of their independent judgements.

Arrangements for the handling of any possible conflicts of interest are set out in Monitor's *Rules of Procedure*.

Terms of appointment

Christopher Mellor and Stephen Thornton were each appointed for an initial term of three years. Jude Goffe and Elaine Murphy were both appointed for an initial term of four years. Thereafter, subject to satisfactory performance, and with the agreement of the Secretary of State for Health, they may be reappointed for a further period of up to four years.

Jude Goffe was reappointed for a further four years on 8 May 2008. Christopher Mellor was reappointed for a further four years on 10 May 2007.

Their terms and conditions of appointment are available on request from the Secretary to the Board.

Deputy Chairman and Senior Independent Director

Christopher Mellor is our Deputy Chairman and Senior Independent Director. He is also the Senior Information Reporting Officer in accordance with Cabinet Office guidance.

As Chairman of the Audit and Remuneration Committees, he is responsible for ensuring that Monitor's governance and processes are as compliant as possible with the *Combined Code on Corporate Governance* and with relevant requirements of Parliament and Government.

As Monitor's Senior Independent Director, his principal responsibilities are to:

1. act as a conduit to the Board for the communication of stakeholder concerns when other channels of communication are inappropriate;

2. ensure that the performance evaluation of the Chairman is effectively conducted; and

3. chair six-monthly meetings of the non-executive directors without the Senior Management Team (including the Executive Chairman) being present.

Meetings of non-executive directors

The non-executive directors meet separately (without the Chairman being present) at least twice a year, principally to appraise the Chairman's performance. During 2008–09, they held one meeting, which was chaired by Christopher

Mellor in his capacity as Monitor's Deputy Chairman and Senior Independent Director.

How the Board operates

Monitor was established by the Health and Social Care (Community Health and Standards) Act 2003. This act was repealed on 1 March 2007 and re-enacted on that date in a consolidated act, the National Health Service Act 2006 (the Act).

In exercise of the powers under paragraph 6(1) of Schedule 7 to the Act, Monitor made the *Rules of Procedure* to establish a Board and to regulate its procedure and that of its committees. The *Rules of Procedure* were published on Monitor's website in November 2006.

Reserved and delegated authorities

The Board has a formal schedule of matters reserved to it for decision (Annex C to Monitor's *Rules of Procedure*). It includes:

1. definition of Monitor's strategic objectives;

2. approval of Monitor's corporate and business plans;

3. approval of all significant expenditure (>£500K);

4. approval of Monitor's policies and procedures for the management of risk;

5. approval of variations to, and development of, Monitor's *Compliance Framework*;

6. decisions on applications for NHS foundation trust status;

7. approval of the use of Monitor's statutory powers of intervention; and

8. approval of the *Prudential Borrowing Code* for NHS foundation trusts.

Information flow

Board members are given appropriate documentation in advance of each Board and Committee meeting. In addition to formal Board meetings, the Executive Chairman and Chief Operating Officer maintain regular contact with all the non-executive directors and hold informal meetings with them to discuss issues affecting Monitor.

Independent professional advice

In addition to advice from Monitor's in-house Legal and Regulatory Directorates, the Board may request independent and external professional advice on any matter relating to the discharge of its duties. The costs of any such advice are met by Monitor, subject to the agreement per the memorandum of understanding between Monitor and the Department of Health as to funding for unforeseen circumstances that may arise during a financial year.

Board members are circulated with sufficient information to ensure that they are kept fully informed on issues arising which affect Monitor.

Secretary to the Board

The Secretary to the Board is responsible for:

1. advising the Board on all corporate governance matters;

2. ensuring that Board procedures are followed;

3. ensuring good information flow between the Board and its Committees;

4. facilitating induction programmes for non-executive directors; and

5. managing the day-to-day relationship with Monitor's internal auditors.

Any questions that stakeholders may have on corporate governance matters should be addressed to the Secretary to the Board at Monitor's office address.

Board meetings and attendance

The attendance of the Executive Chairman and individual non-executive directors at Board and Committee meetings during 2008–09 was as follows:

	Board Max 15	Audit Max 3	Remuneration Max 1	Nomination (-)
William Moyes	15*	3	1	-
Christopher Mellor	12	3*	1*	-
Jude Goffe	13	3	1	
Baroness Murphy	12			
Stephen Thornton CBE	12			

* indicates Chairman of Board / Committee

Board effectiveness

Induction

On joining the Board, non-executive directors are given background information describing Monitor and its activities. Meetings with leaders of the core business areas are also arranged. There have been no new appointments to the Board in the 2008–09 financial year.

Performance evaluation

Following a procurement process, the Board appointed external advisers to assess its overall contribution, in particular, to the delivery of the *Business Plan*, and also the performance of the Executive Chairman against the objectives set for him in his capacity both as Chair and Chief Executive of Monitor. The external advisers worked with the Board and the Senior Management Team. With guidance from the advisers, the Board agreed objectives for assessing its performance and that of the Executive Chairman in his dual capacities for 2008–09. The Board evaluated the Executive Chairman's performance against these objectives and set clear and measurable objectives for next year. The Board did not further appraise its own performance during the year in the context of the findings of the review by the external advisers, and will do so early in the new financial year.

Board Committees

The terms of reference of all the Committees are reviewed on a regular basis by the Secretary to the Board and by the Board as appropriate. Changes have been made to Committee Terms of Reference during 2008–09. The Secretary to the Board will review the *Rules of Procedure* in full in 2009–10.

Audit Committee

Members: Christopher Mellor (Chairman), Jude Goffe and Marian Watson (independent member)

The Committee consists solely of independent members, two of whom are Monitor non-executive directors, all of whom have extensive financial experience in large organisations. Christopher Mellor and Jude Goffe held office throughout the year and at the date of this report. Marian Watson was appointed to the Committee during 2008–09 as a non-voting full member involved in all aspects of the Committee's work, with a special responsibility to ensure that there is an appropriate level of independent challenge to the assessment of risk and to the response of Monitor's Senior Management Team to external and internal audit. Marian Watson attended meetings from March 2009.

At the invitation of the Committee, the Executive Chairman (in his capacity as Monitor's Accounting Officer), Chief Operating Officer, Director of Strategy, Finance and Procurement Manager, Head of Internal Audit (KPMG) and the external auditor (NAO) attend meetings.

The Secretary to the Board attends and is Secretary to the Committee. The Committee met three times in the 2008–09 financial year. There have been no occasions on which either the internal auditors or external auditors have requested a private session with the Committee. All non-executive directors have access to the minutes of all the Committee's meetings.

Key duties of the Committee included:

1. appointment and management of the relationship with the internal auditors;

2. commissioning and receipt of reports from the internal auditors on the adequacy of Monitor's internal control systems; and

3. consideration of all relevant reports from the Comptroller and Auditor General, Monitor's external auditor, including reports on Monitor's accounts, achievement of value for money and the responses to any management letters issued by them.

During 2008–09, following an independent review, the following additional duty was approved:

4. to review in depth Monitor's risk profile and report to the Board on the management and mitigation of current and emerging risks.

For the 2008–09 financial year, the internal auditors undertook the following reviews as part of the plan approved by the Audit Committee:

(a) Corporate Governance
(b) Legal and Regulatory
(c) Procurement
(d) Financial Systems and Controls
(e) Assessment
(f) Compliance Monitoring
(g) Stakeholder Influencing
(h) Performance Management
(i) IT Strategy and Governance
(j) IT MARS Post Implementation
(k) HR

The contract for internal audit services was formally tendered for the 2008–09 financial year and successive financial years. Following an EU compliant procurement process, KPMG were reappointed for a three-year period, with a possibility of up to two one-year extensions.

Nominations Committee

Members: Christopher Mellor (Chairman), William Moyes

The Director of Human Resources and Corporate Services normally attends meetings at the invitation of the Committee.

Upon notification of a forthcoming vacancy, the Committee's role is to identify and make recommendations to the Secretary of State for Health on the appointment of non-executive directors to Monitor's Board.

As no appointments were made in 2008–09 the Nominations Committee did not meet.

Remuneration Committee

Members: Christopher Mellor (Chairman), Jude Goffe, William Moyes, Stephen Hay (Chief Operating Officer), Janet Polson (Director of Human Resources and Corporate Services)

Details of the Remuneration Committee and its policies, together with the directors' remuneration and emoluments are set on pages 75–78.

Executive Committees

Members of the Senior Management Team met twice a month from April 2008 to March 2009 as a Management Committee and a Strategy Committee (excepting August 2008 for the Strategy Committee, and with one additional informal and two additional special meetings of the Management Committee). The Compliance Committee with Senior Management Team membership also met on a monthly basis.

Executive Committee meetings and attendance

The attendance of Senior Management Team members at Executive Committee meetings during 2008–09, together with their attendance at Monitor Board and Committee meetings was as follows:

	Board Max 15	Audit Max 3	Remuneration Max 1	Nominations (-)	Management Max 14	Strategy Max 11	Compliance Max 12
Dr William Moyes	15	3	1		-	8	8
Stephen Hay	14	3	1		14	11	11
Adrian Masters	9	2			13	10	11
Kate Moore	13	2	1		14	11	
Janet Polson			1		12		
Rebecca Gray	12				14	11	11

External directorships for Senior Management Team members

Subject to certain conditions, and unless otherwise determined by the Board, Senior Management Team members are permitted to accept one appointment as a non-executive director.

Monitor's Executive Chairman is a member of the advisory group of the Vice Chancellor of a university. He is a lay member of the Legal Services Board, the overall regulator of the English legal profession, for which the remuneration is £15,000 per annum. He is also an unpaid Trustee of the Nuffield Trust. These positions are declared by the Executive Chairman as part of his entry in Monitor's Register of Interests.

Kate Moore is Chair of Governors at a primary school. The position is unpaid.

Rebecca Gray is a director of a charitable community nursery. The position is unpaid.

Relations with stakeholders

Stakeholder engagement

Monitor meets key stakeholders on a regular basis to discuss matters relating to NHS foundation trust policy and broader questions on health reform. Monitor is usually represented by the Executive Chairman, Director of Strategy and Chief Operating Officer.

During 2008–09, regular meetings were held with a number of organisations and individuals, including ministers, special advisers and senior officials from the Department of Health, the Foundation Trust Network, chairs, chief executives and finance directors of NHS foundation trusts, the Healthcare Commission, the Audit Commission and the National Audit Office.

In addition, the Board of Monitor regularly holds lunches with key stakeholders on the day of its meetings. Attendees in 2008–09 included:

- Greg Beales, Prime Minister's Special Adviser for Health
- Michael Scott (Chief Executive, Westminster PCT), Susanna White (Chief Executive, Southwark PCT) and Rob Larkman (Chief Executive, Camden PCT)
- Lord Patrick Carter (Co-operation and Competition Panel)
- Mike Parish (Chief Executive, Care UK) and David Mobbs (Chief Executive, Nuffield Hospitals Group)
- Barbara Young, Chair, and Cynthia Bower, Chief Executive, Care Quality Commission

- Claire Chapman, Director General of Workforce, Department of Health

Monitor's website

Our website, **www.monitor-nhsft.gov.uk**, is a primary source of information on Monitor. The site includes an archive of publications, including information on NHS foundation trust performance, as well as detailed information on our corporate practices.

Stakeholders who register for the service can receive a notification when any news releases are made, consultations are launched, documents published and new events publicised. There is also an email facility to contact us.

NHS Foundation Trust Code of Governance

Monitor published the *NHS Foundation Trust Code of Governance* in October 2006. The Code is designed to assist NHS foundation trusts in improving their governance by bringing together the best practice of both public and private sector governance.

The requirement for NHS foundation trusts to disclose their compliance (or otherwise) with the provisions of the Code in their respective statutory annual reports came into force for the 2007–08 financial year.

Monitor has complied with the main principles of the Code during the period 1 April 2008 to 31 March 2009, except for:

A.2.1	*The division of responsibilities between the chairman and chief executive should be clearly established, set out in writing and agreed by the Board.* William Moyes was first appointed as Executive Chairman by the Secretary of State for Health in December 2003. Commencing 1 February 2008, Dr Moyes was reappointed for a term of two years. The Board has however agreed separate objectives for the Chairman and Chief Executive elements of his role and will assess these accordingly.
C.2.1	*All other Executive Directors should be appointed by a committee of the chief executive, the chairman and non-executive directors and to reappointment at intervals of no more than five years.* Given the statutory composition of Monitor's Board, appointments to Senior Management Team level are a matter for the Chairman, having consulted with the Board as appropriate. There is no express reference to Executive Directors at Monitor.
E.2.1	*The board of directors must establish a remuneration committee composed of non-executive directors which should include at least three independent non-executive directors.* Given the statutory composition of Monitor's Board, Monitor's Remuneration Committee comprises two independent non-executive directors.
F.3.1	*The board must establish an audit committee composed of non-executive directors which should include at least three independent non-executive directors.* Given the statutory composition of Monitor's Board, Monitor's Audit Committee comprises two independent non-executive directors, and one independent member.

Remuneration report

Remuneration policy

The remuneration of Monitor employees is set by the Remuneration Committee. The Committee also makes recommendations to the Secretary of State for Health on the remuneration arrangements of the Executive Chairman. Membership of this Committee comprises of the Executive Chairman, Deputy Chairman, a non-executive director, the Chief Operating Officer, Director of Human Resources and Corporate Services and other members as from time to time agreed by the Chairman of the Committee. Other non-executive directors may attend by invitation.

No member is involved in any decisions or discussion as to their own remuneration. In reaching its recommendations, the Committee has regard for the following considerations:

- the need to recruit, retain and motivate suitably able and qualified staff;
- the funds available from the Department of Health; and
- the requirement to deliver performance targets.

Service contracts

Appointments are made on merit on the basis of fair and open competition. Unless otherwise stated, the senior management covered by this report hold appointments which are open-ended.

William Moyes was reappointed on a two year contract commencing on 1 February 2008.

Notice periods and termination costs

The required notice periods for the Senior Management Team are given in the table overleaf.

Under the terms of their contract, after one continuous year of service, members of the Senior Management Team are entitled to the same redundancy payments as any other Monitor employee, which is set at the statutory minimum.

Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of Monitor's Senior Management Team. These figures have been audited. Senior managers are salaried and are entitled to annual pay progression subject to individual performance against objectives. Monitor's 2008–09 performance pay increase ranged from 0% to 8%.

Senior Management Team

	Notice period
William Moyes Executive Chairman	6 months
Stephen Hay Chief Operating Officer	6 months
Adrian Masters Director of Strategy	6 months
Kate Moore Director of Legal Services	3 months
Rebecca Gray Director of Public Affairs and Communications	3 months
Janet Polson Director of Human Resources and Corporate Services	3 months

	2008–09 Salary £000's	2007–08 Salary £000's
William Moyes Executive Chairman	235–240*	215–220
Stephen Hay Chief Operating Officer	175–180	160–165
Adrian Masters Director of Strategy	135–140	125–130
Kate Moore Director of Legal Services	120–125	110–115
Rebecca Gray Director of Public Affairs and Communications (appointed with effect from 27 July 2007)	70–75 (90–95 full-time equivalent)	40–45 (85–90 full-time, full year equivalent)
Janet Polson Director of Human Resources and Corporate Services	85–90	80–85

*The board recommended an increase of 8% in the Executive Chairman's salary based on performance and in line with Monitor's pay arrangements for all staff. It was agreed with the Secretary of State for Health, whose approval is required for changes in the remuneration of the Executive Chairman, that this should be paid as a 2.5% increase in base salary and a non-consolidated payment of 5.5%. The Executive Chairman's base salary in 2008–09 was, therefore, within a £220,000 to £225,000 bracket.

Non-executive directors

	2008–09 Remuneration £000's	2007–08 Remuneration £000's
Christopher Mellor	15–20	20–25
Jude Goffe	25–30	15–20
Elaine Murphy	15–20	15–20
Stephen Thornton	10–15	15–20

Non-executive director remuneration is non-pensionable and none of the non-executive directors received benefits-in-kind.

Pension benefits

	Accrued pension at age 60 as at 31/03/09 and related lump sum £000's	Real increase in pension and related lump sum at age 60 £000's	CETV AT 31/03/08 £000's	CETV AT 31/03/09 £000's	Real increase in CETV £000's
William Moyes Executive Chairman	70–75	5–7.5	1,260	1,390	115
Stephen Hay Chief Operating Officer	10–15	2.5–5	125	166	34
Adrian Masters Director of Strategy	10–15	0–2.5	124	148	20
Kate Moore Director of Legal Services	5–10	0–2.5	95	120	23
Rebecca Gray Director of Public Affairs and Communications	0–5	0–2.5	9	20	9
Janet Polson Director of Human Resources and Corporate Services	30–35	0–2.5	512	523	15

Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. Existing staff may be in one of four defined benefit schemes; either a 'final salary scheme' (Classic, Premium, and Classic Plus) or a 'whole career scheme' (Nuvos). The schemes are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under Classic, Premium, Classic Plus and Nuvos are increased annually in line with changes in the Retail Price Index (RPI). Employee contributions are set at the rate of 1.5% of pensionable earnings for Classic and 3.5% for Premium, Classic Plus and Nuvos. Benefits in Classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For Premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike Classic, there is no automatic lump sum. Classic Plus is essentially a variation of Premium but with benefits in respect of service before 1 October 2002 calculated broadly in the same way as Classic. The Nuvos scheme was introduced on 30 July 2007 for all new staff unless they are already members of or eligible to rejoin the other schemes. Members of Nuvos build up pension based on his or her pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with RPI.

In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a selection of approved products. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill-health retirement).

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued to their previous scheme.

The pension figure shown relates to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures, and from 2003–04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements and for which the CS Vote has received a transfer payment commensurate with the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are drawn.

Real increase in CETV
This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Dr William Moyes
Executive Chairman
2 July 2009

Statement of Accounting Officer's responsibilities

Under the National Health Service Act 2006, the Accounting Officer is required to prepare accounts for each financial year. The Secretary of State for Health directs that these accounts present a true and fair view of Monitor's income and expenditure and cash flows for the financial year, and to the state of affairs at the year end. In preparing the accounts, the Accounting Officer is required to:

- observe the Accounts Direction issued by the Secretary of State;
- apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer for the Department of Health has appointed the Executive Chairman as the Accounting Officer for Monitor. His relevant responsibilities, as Accounting Officer, including his responsibility for the propriety and regularity of the public finances, for the keeping of proper records and the safeguarding of Monitor's assets, are set out in the Non-Departmental Public Bodies' Accounting Officer Memorandum, issued by HM Treasury and published in *Managing Public Money*.

Statement on internal control

Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of Monitor's policies, aims and objectives. These are set out in the National Health Service Act 2006 and Monitor's *Corporate Plan 2006–09*. In doing so, I must safeguard the public funds and assets in accordance with the responsibilities assigned to me in *Managing Public Money* and the Accounts Direction from the Department of Health dated 14 June 2007.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to:

- identify and prioritise the risks to the achievement of Monitor's policies, aims and objectives;
- evaluate the likelihood of those risks being realised and the impact should they be realised; and
- manage them efficiently, effectively and economically.

The system of internal control has been in place in Monitor for the year ended 31 March 2009 and up to the date of approval of the annual report and accounts, and accords with Treasury guidance.

Risk and control framework

Corporate governance and risk management arrangements in Monitor are summarised in the corporate governance disclosure on pages 67–74 of Monitor's Annual Report and Accounts and are set out in full in Monitor's *Rules of Procedure*, which was published on Monitor's website in November 2006.

Capacity to handle risk

Monitor's policy on risk management clearly defines the role and responsibilities of key managers and committees within the governance structure enabling leadership to be given to Monitor's approach to risk management. This includes the role of the Board, Audit Committee and other groups including the Senior Management Team. The Senior Management Team meets regularly as Management, Compliance and Strategy Committees to identify, inform and manage key issues facing the organisation and the corresponding risks. This approach ensures that members of staff at all levels are aware of the importance of risk management and that appropriate actions are being taken to manage risk.

Monitor has an established risk reporting framework. The risk register is updated quarterly through a programme of internal control meetings with senior managers. The risk register is reported and discussed at quarterly Management, Compliance and Strategy Committee and Board meetings. In 2009–10 risk management will be considered by the Audit Committee on a quarterly basis.

In addition, on the management of information risk, the following steps have been undertaken:

- a risk assessment in relation to the loss of and unauthorised use of information;
- a review of the procedures in place to secure confidential information (including personal data) held by Monitor; and
- identification of process measures to manage information risk and protect personal information.

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. This review is informed by the work of the internal auditors and Senior Management Team members who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports.

As the Independent Regulator of NHS Foundation Trusts, it is of paramount importance for Monitor to be able to demonstrate that risk management processes are in place and operating efficiently.

KPMG, the internal auditors, were asked to continue to focus their efforts in this area and, with their assistance, Monitor continues to enhance its internal controls environment above and beyond the minimum levels required. Management continues to ensure that appropriate and relevant controls are embedded in all areas of Monitor's work.

Internal audit work covering compliance and intervention processes continues to provide me with adequate assurance that effective controls are either in place or being developed to a higher degree of sophistication. This is particularly important given the ongoing shift in emphasis in our work from assessment to compliance over the coming years.

During the year, Monitor's Board has maintained strategic oversight and review of internal control and risk management arrangements through regular reports by directors on their areas of responsibility and through specific papers for discussion at Board meetings.

The Audit Committee, which meets on a quarterly basis, has considered:

- individual internal audit reports and management responses;
- progress on implementation of previous audit recommendations;
- the internal auditors' annual report and opinion on the adequacy of our internal control system;
- National Audit Office audit reports and recommendations; and
- development of Monitor's approach to risk management.

Advice on the implications of the result of the 2008–09 review of the effectiveness of the system of internal control has been provided to the Accounting Officer by the Audit Committee, incorporating a report from internal audit on the adequacy of risk management, control and governance processes in place during the year to manage the achievement of Monitor's objectives.

MARS, Monitor's bespoke IT and document management system was reviewed in 2008–09 which resulted in its further development to meet the new reporting requirements arising from changing accounting standards from UK Generally Accepted Accounting Practice (GAAP) to International Financial Reporting Standards (IFRS). The IFRS upgrade project was subject to a KPMG internal audit review, the report for which was very positive.

To my knowledge and based on the advice I have received from those managers with designated responsibilities for managing risks and the risk management system, I am not aware of any significant internal control problems for 2008–09.

Dr William Moyes
Executive Chairman
2 July 2009

The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Independent Regulator of NHS Foundation Trusts (Monitor) for the year ended 31 March 2009 under the National Health Service Act 2006. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

The Executive Chairman as Accounting Officer is responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the remuneration report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State. I report to you whether, in my opinion, the information, which comprises the management commentary and governance disclosures, included in the Annual Report is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if Monitor has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal control reflects Monitor's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of Monitor's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the Foreword, NHS foundation trusts, Monitor's roles and responsibilities, Rigorous assessment, Proportionate regulation, Developing a devolved system, Clear and effective communications, A high-performing organisation, Looking forward, and Measuring Monitor's impact and value. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to Monitor's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State, of the state of Monitor's affairs as at 31 March 2009 and of its total net expenditure for the year then ended;

- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State; and

- information, which comprises the management commentary and governance disclosures, included within the Annual Report, is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General

National Audit Office
151 Buckingham Palace Road
Victoria
London SWIW 9SS

6 July 2009

Accounts and notes

Operating cost statement

For the year ended 31 March 2009

	Note	year ended 31/03/09 £000's	£000's	year ended 31/03/08 £000's	£000's
Expenditure					
Staff costs	2	(8,036)		(6,539)	
Other operating expenditure	3	(6,610)		(6,437)	
Total expenditure			**(14,646)**		**(12,976)**
Miscellaneous income	4		121		63
Net expenditure on ordinary activities before interest			**(14,525)**		**(12,913)**
Interest receivable			2		5
Notional cost of capital			35		50
Net expenditure on ordinary activities			**(14,488)**		**(12,858)**
Reversal of notional cost of capital			(35)		(50)
Net expenditure for the financial year			**(14,523)**		**(12,908)**

All operations are continuing.

There were no other recognised gains or losses for the financial year.

The notes on pages 88–97 form part of these accounts.

Balance sheet

As at 31 March 2009

	Note	31/03/09 £000's	31/03/09 £000's	31/03/08 £000's	31/03/08 £000's
Fixed assets					
Intangible assets	5a		213		90
Tangible fixed assets	5b		783		970
Total fixed assets			**996**		**1,060**
Current assets					
Debtors falling due within one year	6	541		337	
Cash at bank and in hand	7	4,654		3,191	
Total current assets		**5,195**		**3,528**	
Current liabilities					
Creditors: Amounts falling due within one year	8	(2,148)		(1,840)	
Net current assets			3,047		1,688
Total assets less current liabilities			**4,043**		**2,748**
Creditors: Amounts falling due after one year	9	(249)		(308)	
Provisions	10	(421)		(218)	
			(670)		(526)
Net assets			**3,373**		**2,222**
General reserve	**11**		**3,373**		**2,222**

The notes on pages 88–97 form part of these accounts.

Dr William Moyes
Executive Chairman
2 July 2009

Cash flow statement

For the year ended 31 March 2009

	Note	31/03/09 £000's	31/03/08 £000's
Net cash flow from operating activities	12	(13,946)	(14,217)
Returns on investments and servicing of finance			
Interest received		2	5
Capital expenditure			
Payments to acquire intangible fixed assets		(176)	(10)
Payments to acquire tangible fixed assets	5	(91)	(103)
Financing			
Grant-in-aid received		15,674	13,500
Net increase/(decrease) in cash		**1,463**	**(825)**

The notes on pages 88–97 form part of these accounts.

1. Accounting policies

Accounting convention

The financial statements have been prepared in accordance with the *Government Financial Reporting Manual* issued by HM Treasury. The particular accounting policies adopted by Monitor are described below.

They have been consistently applied in dealing with items considered material in relation to the accounts.

This account has been prepared under the historical cost convention, in accordance with directions issued by the Secretary of State for Health with the approval of HM Treasury.

Tangible and intangible fixed assets

The *Government Financial Reporting Manual* permits revaluation of property, plant and equipment, and intangible assets to their value to the business at current costs. Monitor has determined that current value is not materially different from historical cost and has therefore chosen to value property, plant and equipment, and intangible assets at historic cost, as permitted by the *Government Financial Reporting Manual*.

Intangible assets comprise purchased licences to use third party software systems. All assets falling into this category with a value of £5,000 or more have been capitalised. Intangible assets are valued at historic cost less amortisation.

Tangible fixed assets comprise IT hardware, furniture, fixtures and office equipment and leasehold improvements which individually or grouped cost more than £5,000. Assets of the same or similar type acquired around the same time and scheduled for disposal around the same time, or assets which are purchased at the same time and are to be used together are grouped together as if they were individual assets.

All fixed assets have been funded by Government grant-in-aid.

Financial instruments

As required by the *Government Financial Reporting Manual*, Monitor has accounted for financial instruments in accordance with financial reporting standards 25 and 26 and has made disclosures relating to those financial instruments in accordance with financial reporting standards 25 and 29.

Income

The main source of funding for Monitor is Government grant-in-aid from the Department of Health's Request for Resources 3. This is credited to the general reserve as it is received. Occasionally, Monitor receives income as a result of its operating activities. Miscellaneous operating income is recognised in the operating cost statement under the accruals convention.

Depreciation
Depreciation is provided from the month following purchase on all intangible and tangible fixed assets at rates calculated to write off the cost or valuation of each asset evenly over its expected life as follows:

- IT software and IT equipment – three years
- Furniture, fixtures and office equipment – five years
- Leasehold improvements – over life of lease.

Cost of capital charge
Monitor is subject to a notional charge for the cost of Government funded capital employed during the year. The charge is calculated at 3.5% of average net assets for the year, excluding cash balances held at the Office of the Paymaster General which do not attract interest.

For the year ended 31 March 2009 the average capital employed was negative so, in accordance with the *Government Financial Reporting Manual*, the notional cost of capital has been recorded as a credit in the Operating Cost Statement.

Operating leases
Operating lease payments are recognised as an expense on a straight-line basis over the lease term.

Pensions
Monitor participates in the Principal Civil Service Scheme. The scheme is an unfunded defined benefit scheme. Monitor contributes annual premiums and retains no further liability except in the case of employees who take early retirement.

Employers pension cost contributions are charged to operating expenses as and when they become due. Details are included in Note 14 to the Accounts.

Value Added Tax (VAT)
Monitor is not registered for VAT so all other expenditure in these financial statements includes VAT incurred.

2. Staff costs

a) Staff costs comprise the following

	year ended 31/03/09 £000's	year ended 31/03/08 £000's
Salaries and wages	5,761	4,482
Social security costs	572	452
Employer's pension costs	1,373	1,035
Total cost of staff employed	**7,706**	**5,969**
Agency, seconded, temporary and interim	330	570
Total cost of staff	**8,036**	**6,539**

b) The average number of whole time equivalent employees during the year was as follows:

As at 31 March 2009, there were 94 full-time employees (31 March 2008: 83), 88 of whom are members of the Principal Civil Service Pension Scheme and six of whom are members of the Partnership Civil Service Pension Scheme. Monitor engaged staff on various agency, secondment, temporary and interim arrangements for variable time periods. As at 31 March 2009 there were two staff working at Monitor on this basis (31 March 2008: five).

The average number of whole-time equivalent employees, including the Executive Chairman, during the year ended 31 March 2009 was 88 (year ended 31 March 2008: 70). The average number of whole-time equivalent agency, secondment, temporary and interim staff was five (year ended 31 March 2008: eight).

3. Other operating costs

	year ended 31/03/09 £000's	*Restated year ended 31/03/08 £000's*
Property expenses	701	*723*
Office expenses	1,506	*1,829*
Consulting services	1,901	*1,536*
Audit fee for Monitor	27	*25*
Audit fee for consolidated accounts	52	*53*
Other professional fees	888	*961*
Depreciation	364	*332*
Amortisation	95	*168*
Charge to provisions	203	*133*
Travel and subsistence	262	*201*
Conferences, website and other communications expenses	425	*314*
General expenses	186	*161*
Total other operating costs	**6,610**	***6,437***

In 2008–09 the audit fee for Monitor represents the cost of the audit of the financial statements carried out by the Comptroller and Auditor General, as well as £2,000 for audit work on preparation for the implementation of International Financial Reporting Standards.

£411,000, which represents the cost of outsourcing for the annual risk assessment process, has been reclassified from consulting services to other professional fees for the year ended 31/03/08.

4. Miscellaneous income

	year ended 31/03/09 £000's	year ended 31/03/08 £000's
Income from secondments	121	63
Total miscellaneous income	**121**	**63**

5. Fixed assets

a) Intangible assets

	Software licences £000's
Cost or valuation	
At 31 March 2008	554
Additions	218
Disposals	(17)
At 31 March 2009	**755**
Amortisation	
At 31 March 2008	464
Charge for year	95
Disposals	(17)
At 31 March 2009	**542**
Net book value at 31 March 2008	90
Net book value at 31 March 2009	**213**

b) Tangible assets

	IT equipment £000's	Furniture, fixtures and office equipment £000's	Leasehold improvements £000's	Total £000's
Cost or valuation				
At 31 March 2008	766	395	670	1,831
Additions/reclassification	164	13		177
At 31 March 2009	**930**	**408**	**670**	**2,008**
Depreciation				
At 31 March 2008	380	236	245	861
Charge for year	214	81	69	364
At 31 March 2009	**594**	**317**	**314**	**1,225**
Net book value at 31 March 2008	386	159	425	970
Net book value at 31 March 2009	**336**	**91**	**356**	**783**

6. Debtors – amounts falling due within one year

	31/03/09 £000's	31/03/08 £000's
Prepayments	338	320
Other debtors and accrued income	203	17
	541	**337**

Other debtors includes £140,000 receivable from the Care Quality Commission for a shared project with Monitor.

6a. Debtors – intra Government balances

	31/03/09 £000's	31/03/08 £000's
Balances with Central Government bodies	167	0
Balances with Local Government bodies	137	131
Balances with NHS bodies	14	0
Subtotal of intra Government balances	**318**	**131**
Balances with bodies external to Government	223	206
	541	**337**

7. Cash at bank and in hand

	31/03/09 £000's	31/03/08 £000's
Account held with Paymaster General	4,577	3,034
Account held with HSBC	76	155
Petty cash	1	2
	4,654	**3,191**

8. Creditors – amounts falling due within one year

	31/03/09 £000's	31/03/08 £000's
Trade creditors	333	321
Tax and NIC	196	167
Pensions creditor	141	116
Liability relating to rent-free period	59	59
Fixed asset creditor	138	10
Other creditors and accruals	1,281	1,167
	2,148	**1,840**

8a. Creditors – intra Government balances

	31/03/09 £000's	31/03/08 £000's
Balances with Central Government bodies	337	283
Balances with bodies external to Government	1,811	1,557
	2,148	**1,840**

9. Creditors – amounts falling due after more than one year

	31/03/09 £000's	31/03/08 £000's
Liability relating to rent-free period	249	308

10. Provisions

	Litigation £000's	Dilapidation £000's	Total £000's
Provision as at 31 March 2008	100	118	218
Charge for the year	84	119	203
Provision as at 31 March 2009	**184**	**237**	**421**

A provision for litigation was made in 2007–2008 to cover anticipated costs relating to the legal challenge to Monitor's interpretation of the private patient income cap. It has been increased this year to reflect an increase in the estimate of these costs.

Analysis of expected timing of cash flows

	Litigation £000's	Dilapidation £000's	Total £000's
Within 1 year	184	0	184
Within 2 to 5 years	0	0	0
After more than 5 years	0	237	237
	184	**237**	**421**

11. Movement on reserves

	General Reserve £000's
At 31 March 2008	**2,222**
Net expenditure	(14,523)
Grant-in-aid received towards revenue expenditure	15,279
Grant-in-aid received towards purchase of fixed assets	395
At 31 March 2009	**3,373**

12. Reconciliation of net operating expenditure to net outflow from operating activities

	year ended 31/03/09 £000's	year ended 31/03/08 £000's
Net expenditure on ordinary activities before interest	(14,525)	(12,913)
Adjustments for non-cash items		
Increase in provisions	203	133
Depreciation charge	364	332
Amortisation charge	95	168
Release of long-term rent accrual	(59)	(59)
Adjustments for movements on working capital		
(Increase)/decrease in debtors falling due within one year	(204)	354
Increase/(decrease) in creditors falling due within one year	180	(2,232)
Net cash outflow from operating activities	**(13,946)**	**(14,217)**

13. Operating leases

Commitments under operating leases to pay rentals during the year following these accounts are given in the table below, analysed according to the period in which the lease expires.

	31/03/09 £000's	31/03/08 £000's
Within 1 year	0	0
Within 2 to 5 years	0	0
After more than 5 years	408	417
	408	**417**

14. Pension scheme

Monitor participates in the Principal Civil Service Pension Scheme (PCSPS). The Scheme is an unfunded, multi-employer defined benefit scheme but Monitor is unable to identify its share of the underlying assets and liabilities. A full actuarial valuation was carried out as at 31 March 2007. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk).

For 2008–09, employer's contributions of £1,345,452 were payable to the PCSPS (2007–08: £999,532) at one of four rates in the range 17.1% and 25.5% of pensionable pay, based on salary bands. The Scheme Actuary reviews employer contributions every four years following a full scheme valuation. In 2009–10, the salary bands will be revised and the rates will be in the range between 16.7% and 24.3% of pensionable pay.

The contribution rates are set to meet the cost of benefits accruing during 2008–09 to be paid when a member retires, and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employer's contributions of £25,692 (2007–08: £33,394) were paid into one or more of a panel of three appointed stakeholder pension providers.

Employer contributions are age-related and range from 3% to 12.5% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay. In addition, employer contributions of £1,960 (2007–08: £1883), 0.8% of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees.

Contributions due to the partnership pension providers at the balance sheet date were £1,991.

15. Capital commitments

There were no capital commitments at 31 March 2009 that require disclosure.

16. Related parties

Monitor is a Non-Departmental Public Body sponsored by the Department of Health which is regarded as a related party. Amounts owing from and to the Department of Health are reflected in debtors and creditors respectively. During the year no Board members, members of the senior management or other related parties have undertaken any material transactions with Monitor.

17. Financial instruments

FRS 29, Financial Instruments Disclosure, requires disclosure of the role that financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Financial instruments play a much more limited

role in creating or changing risk for Monitor than would be typical of the listed companies to which FRS 29 mainly applies, as described below.

Liquidity risk
The main source of funding for Monitor is Government grant in aid through the Department of Health's Request for Resources 3. This is paid to Monitor monthly on the basis of a payment schedule agreed annually with the Department of Health. By ensuring that expenditure is maintained within the budgetary allocation, Monitor faces minimal liquidity risk.

Interest rate risk
At 31 March 2009 all Monitor's financial liabilities were non-interest bearing.

Monitor's only interest bearing financial asset is its HSBC account. It is Monitor's policy to maintain the balance on the HSBC account below £100,000. Therefore, interest income is immaterial to Monitor's operations and Monitor faces no significant interest rate risk.

Credit risk
As can be seen in note 6a, at 31 March 2009, only £223,000 of Monitor's debtors were with bodies external to Government.

Of these, £201,000 were prepayments and the remaining £22,000 were season ticket loans to employees, which are recoverable through payroll. Given that intra government balances are not subject to credit risk, Monitor faced no credit risk at 31 March 2009.

Foreign currency risk
Monitor has negligible foreign currency expenditure and is, therefore, not exposed to any material foreign currency risk.

As Monitor does not trade in financial instruments, those that it does hold are accounted for at book value, which represents a reasonable approximation to fair value, any difference in these values being immaterial to Monitor's accounts.

18. Contingent liabilities
There were no contingent liabilities at 31 March 2009.

19. Post balance sheet events
Monitor's accounts are laid before Parliament by the Comptroller and Auditor General. FRS 21 requires Monitor to disclose the date of authorisation of the accounts. The authorised date for issue is 6 July 2009.

There are no other post balance sheet events which require disclosure.

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