Monitor

Independent Regulator
of NHS Foundation Trusts

Annual Report and Accounts 2009-10

Monitor – Independent Regulator of NHS Foundation Trusts

Annual Report and Accounts
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Our vision, mission and strategy

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.

We have five strategy areas to help us deliver our mission:

1. 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.
2. Operate a **rigorous assessment process** and support the development of applicants to generate NHS foundation trusts which are legally constituted, financially robust and well-governed.
3. 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.
4. 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.
5. 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.

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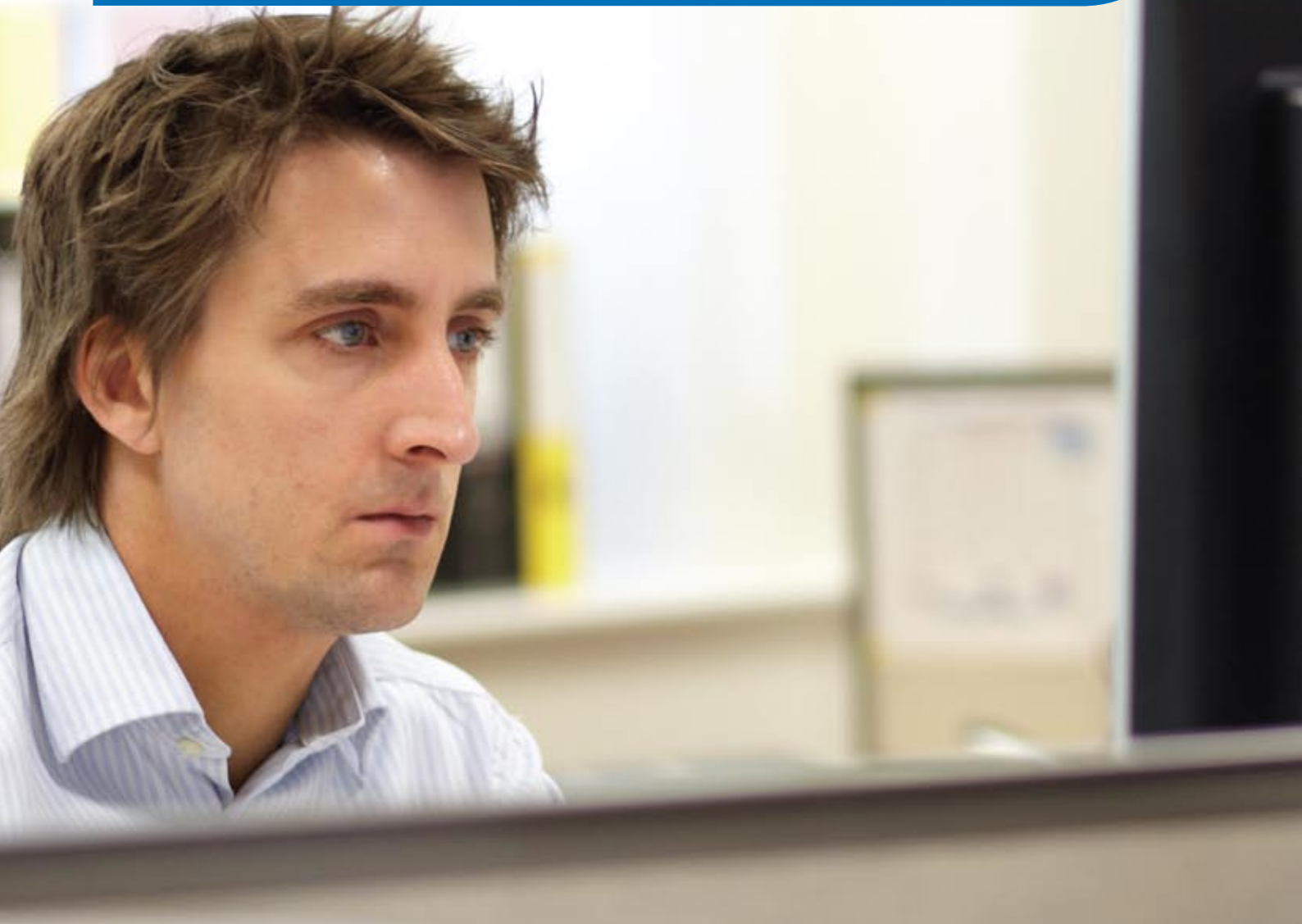


Chair's message

> My key aim for the future is to continue to secure a thriving NHS foundation trust sector, working closely with the new government as it reshapes the NHS and the regulation of healthcare.

Welcome to Monitor's review of 2009-10. Our work over the past year has been delivered against a backdrop of significant change: the challenging financial environment; political uncertainty; and a change in our own leadership. We continued to deliver against our planned actions for the year despite this, and it has been a successful year of solid achievements.

I joined Monitor in May 2010 and was delighted to have an opportunity to lead an organisation with a reputation for robust and effective regulation, and one that has made a real difference to how the healthcare system operates. I would like to pay tribute to Bill Moyes, Executive Chairman of Monitor from January 2004 to January 2010, and to Monitor's Board, for the firm foundations they have laid. Bill and his team built Monitor from its inception, developing a rigorous assessment process and our risk-based approach to regulation. I would also like to thank Christopher Mellor for assuming the role of Acting Chair from February to the end of April this year.

There are exciting prospects for the years ahead, as we enter a new era for both the NHS and Monitor. With a new Secretary of State for Health, a new policy agenda and changes to our role, there are many opportunities for us to improve healthcare delivery. My key aim for the future is to continue to secure a thriving NHS foundation trust sector, working closely with the new government as it reshapes the NHS and the regulation of healthcare. Building on our success to date, I am looking forward to leading the organisation through these changes.

Steve Bundred Chair

Chief Executive's review

> There have been two key themes to our work during 2009-10: helping trusts prepare for the future and driving up the quality of care.

By meeting Monitor's assessment standards, NHS foundation trusts have demonstrated that they can operate autonomously, with their boards taking responsibility for delivering excellent patient care. With the freedoms available to them, and their local accountability to members and governors, NHS foundation trusts have a real opportunity to develop high quality and responsive services for their patients and service users.

For this model to work effectively, NHS foundation trusts must be independent and our regulatory approach supports this. Our aim is to ensure NHS foundation trusts are well-led, focused on the quality of care they are delivering, financially strong and locally accountable. Underpinning this is the principle that we hold foundation trust boards to account for the successful operation of their organisation. The past year has seen an increase in compliance activity, which demonstrates our commitment to identifying issues and working with trusts to deal with problems. This approach has led, in many cases, to sustained improvements.

There have been two key themes to our work during 2009-10: helping trusts prepare for the future and driving up the quality of care. These themes have driven much of our work with both applicants and existing NHS foundation trusts, where we have ensured boards remain focused on quality improvement at a time of increased financial pressure.

During 2009-10, we upgraded the annual planning round for foundation trusts and revised the financial assumptions we use in our assessment process to ensure trusts are preparing for a slowdown in the growth in healthcare funding. At a national policy development level, our input to the Department of Health's National Quality Board has helped champion quality and develop a coherent national quality framework. Our work at trust level has supported this drive, enhancing our requirements for reporting on quality in foundation trusts' annual reports, and working on pilot projects to develop the board's role in leading quality improvement and driving patient safety improvements. Internally, we have developed our approach to assessing quality governance in applicant NHS foundation trusts.

All of these developments on the quality front have been supported by a strong focus on working in close partnership with the Care Quality Commission, formalised through a memorandum of understanding and supported by a working practices document. Both our compliance and assessment activities have benefited from the development of this strong working relationship, enhancing our understanding of NHS foundation trusts' clinical performance.

Our work to revise our own processes is part of a significant project to look at how we must learn from the unacceptable failings in care at Mid Staffordshire NHS Foundation Trust. This report summarises our work in this area, and we will publish a report providing more detail this summer.

In December 2009, the Administrative Court delivered its ruling on the judicial review of Monitor's interpretation of legislation to limit NHS foundation trust income derived from private patient charges (the private patient income cap). The judicial review was prompted by a legal challenge to Monitor's interpretation of the cap by Unison. Mr Justice Cranston ruled that Monitor's interpretation of the legislation was not lawful and determined that the cap should apply to a wider range of income sources. In February 2010, we subsequently published revised rules and guidance on how the private patient income cap should be operated by NHS foundation trusts.

Two key internal projects at Monitor have sought to prepare us for a future where we all have to seek to deliver more for less. An organisational development programme, Mapping our Future, aims to ensure that we work in a way that allows us to respond efficiently to the changes in volume and complexity of our work, introducing a more flexible, project-based internal resourcing model. This is now being piloted across Monitor. Alongside this, we have revised our approach to knowledge management, reflecting the size and complexity of the sector we now regulate and where we have developed new processes and systems to maximise the efficiency and effectiveness with which we gather and use information throughout the organisation.

David Bennett Interim Chief Executive

Overview of Monitor and NHS foundation trusts

Monitor is the independent regulator of NHS foundation trusts. Established in 2004[1], we authorise and then regulate NHS foundation trusts, ensuring they are legally constituted, financially robust, well-led and locally accountable.

It is our role to make sure NHS foundation trust boards operate effectively so that trusts are well run on behalf of patients and taxpayers. When problems occur, we seek to spot them early so that robust plans can be put in place to resolve them before they become major concerns.

We have specific statutory functions and discretion over their delivery. Our primary responsibilities are:

- assessing applications for NHS foundation trust status and authorising successful applicants;
- designing and operating the regulatory regime to ensure that NHS foundation trusts are financially robust, well-governed and locally accountable;
- taking action if there is evidence that an NHS foundation trust is in significant breach of the conditions Monitor sets for the way it operates;
- setting the reporting requirements for NHS foundation trusts;
- reporting on the performance of the foundation trust sector and providing details of regulatory action we have taken;
- taking and enforcing decisions on matters concerning the *Principles and Rules for Co-operation and Competition* within the NHS foundation trust sector;
- considering the de-authorisation of an NHS foundation trust which is failing to comply with a notice served to it under Section 52 of the Health Act 2006, and where further such notices could not secure recovery of the trust;
- supporting the NHS foundation trust sector to operate effectively, efficiently and economically; and
- exercising our own functions effectively, efficiently and economically.

NHS foundation trusts are part of the NHS. They have greater freedom than NHS trusts to run their own affairs and are not subject to central government control. Instead, they can respond to the needs of their local communities through their members and governors, using their freedoms to decide how best to deliver the kind of services which their patients and service users want. These freedoms include:

- keeping any surplus earned, or the proceeds from the sale of assets or land, to invest in improving care for patients and service users;
- the ability to borrow to fund investments up to a limit set under Monitor's *Prudential Borrowing Code*; and
- developing incentives for staff to encourage innovation and improvement outside nationally agreed contracts.

With these freedoms come important responsibilities. NHS foundation trusts are accountable for their own success or failure to:

- their local communities, through their members and governors;
- their commissioners, through legally binding contracts to provide agreed levels of care which reflect the needs of their local communities;
- Parliament, through the legal requirement to publish their annual accounts to Parliament;
- the Care Quality Commission (the quality regulator of health and social care in England), through the legal requirement to register and meet the associated standards for the quality of care provided; and
- Monitor, as the Independent Regulator of NHS Foundation Trusts.

[1] The Health and Social Care (Community Health and Standards) Act 2003. The provisions of this Act that relate to Monitor and NHS foundation trusts have now been consolidated into the National Health Service (NHS) Act 2006.

Operating a rigorous assessment process

Monitor runs a robust and challenging process to assess trusts applying for NHS foundation trust status. This involves examining closely a trust's governance arrangements, financial viability, local accountability and performance against national standards and targets. We require strong evidence that applicant trusts can manage the freedoms that NHS foundation trust status brings, operating as independent organisations, with effective boards that are accountable for performance.

Our assessment methods and criteria are widely viewed as demanding and thorough. Feedback from stakeholders in our 2009 Ipsos MORI survey showed that, among NHS stakeholders, 94% agreed that our assessment process is rigorous. The assessment process also improves operating efficiencies in NHS foundation trusts: our report *Measuring Monitor's Impact* (published in September 2009) demonstrated our assessment process had resulted in improvements in efficiency worth approximately £130 million (up to 2007-08).

For applicant trusts that are unsuccessful, the assessment process can be a valuable learning experience, highlighting issues that trusts need to address. The main reasons for applicants failing to achieve foundation trust status remain similar to previous years: board capacity; governance processes relating to both clinical and financial systems; and financial viability.

We are committed to sharing learning from the assessment process to support future applicants. During 2009-10 we presented to aspirant NHS foundation trusts as part of the Foundation Trust Network's preparation programme. We also continued to provide tailored feedback to each individual trust whose application is not approved, to enable them to develop the specific areas which let them down.

Assessment activity during 2009-10

In 2009-10 we saw a decrease in the number of trusts applying for and authorised as NHS foundation trusts. We assessed 20 applications, leading to the authorisation of 14 NHS foundation trusts. This is a significant reduction from 2008-09, when we assessed 43 trusts and authorised 26. At the end of 2009-10, there were 129 NHS foundation trusts in total.

The reduction in the number of trusts authorised was due to a significant drop in the number of applicants being referred to us by the Department of Health for assessment (which we anticipated in our 2009-10 business plan). This was, in part, due to the Department of Health raising the threshold on quality performance standards that applicants must meet before being referred to Monitor.

In May 2009 we revised the financial assumptions we use in our assessment process, to reflect the deteriorating economic outlook. As a result applicant trusts would have to demonstrate that they could continue to operate effectively in a tougher public spending climate. This meant fewer trusts came to us for assessment as they needed to develop more robust approaches to mitigate the increased financial risks they faced, without compromising on the quality of their care. Many of those applicant trusts which were referred to us required more scrutiny during the assessment process to ensure they could operate in this tougher environment, increasing the time required to assess them.

	2007-8	2008-9	2009-10
Assessed	45	43	20
Authorised	30	26	14
Deferred	7	2	1
Postponed	7	10	4
Withdrew	1	6	1
Rejected	1	1	0

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.

Testing processes that enable improvement – Humber NHS Foundation Trust

In 2006 Humber NHS Foundation Trust – which provides mental health, learning disability and addiction services in Hull and the surrounding areas – underwent Monitor's rigorous assessment process. Three areas of major concern were raised.

First, the trust could not demonstrate financial viability and sustainability against a reasonable set of risks which reflected adverse circumstances (a downside scenario). Second, there were concerns about the composition of the trust's board, particularly with one existing non-executive director vacancy and another four arising in the coming year. Finally, there were reservations about how the board would be able to manage the issues raised, especially with its number of vacancies.

Following its decision to reject the trust's application, Monitor gave the trust and its strategic health authority a detailed explanation of its reasoning: "We went to Leeds and sat down with them to talk through all aspects we'd considered in coming to this decision," explains Marianne Loynes, Senior Assessment Manager at Monitor. "We wanted to give them really comprehensive feedback so that they could address the issues."

After the briefing, the trust and strategic health authority were determined to resolve these issues. By the time Monitor started its reassessment in the autumn of 2009, new board members, including the chair and chief executive, were able to bring valuable experience from other NHS trusts and the private sector to Humber. This helped put the trust onto a firmer financial footing and implement robust governance processes. In February 2010 the trust was authorised as an NHS foundation trust.

"We are always open and willing to provide feedback to enable trusts to make the necessary changes," explains Marianne. "This was an especially good example of how assessment can act as a catalyst for improvements in performance, even where a trust is refused authorisation. The initial assessment of the trust marked the beginning of its journey towards better risk and performance management, more stable finances and, ultimately, towards being an NHS foundation trust with all the benefits that offers to the local community."

Commenting on behalf of the trust David Snowdon, Chief Executive and Jane Fenwick, Chair, said "We were delighted to be authorised as a foundation trust. There is no doubt that the work completed within the trust in preparation for the second assessment by Monitor has placed the trust on a much firmer footing. On that basis we wish to thank all our staff, our members, and all our partner agencies for their support. We would also wish to thank our colleagues on the Board, and members of the project team for their outstanding support and commitment."


Humber Centre

Learning from Mid Staffordshire NHS Foundation Trust

During 2009-10, a significant amount of our work focused on how we could learn from the unacceptable failings in care at Mid Staffordshire NHS Foundation Trust.

The trust was authorised by Monitor as an NHS foundation trust in February 2008. In March 2008, the Healthcare Commission started an investigation into mortality rates in emergency care at the trust, publishing a report in March 2009. The investigation identified significant failings relating to quality of care, governance and leadership within the trust. These findings were reinforced by Robert Francis QC's report in February 2010, which looked at the care provided by the trust between 2005 and 2009 and was based on evidence from over 900 patients and families. The report concluded that patients were routinely neglected by a trust that was preoccupied with cost cutting, targets and processes and which had lost sight of its fundamental responsibility to provide safe care. Robert Francis QC will be chairing a public inquiry which will report in March 2011. This will look at the role of the commissioning, supervisory and regulatory bodies in the monitoring of Mid Staffordshire NHS Foundation Trust.

Having worked closely with the Healthcare Commission from the outset of its investigation, Monitor intervened at the trust in March 2009 and appointed an Interim Chair (David Stone) and required the trust to appoint an Interim Chief Executive (Eric Morton). The key purpose of this intervention was to ensure that strategic and operational leadership was in place to stabilise the trust, enabling it to address the recommendations of the Healthcare Commission's report, and maintain and build on the momentum of the improvements that had already been achieved.

Eric Morton's appointment ended in July 2009 when he returned to Chesterfield NHS Foundation Trust. Following a recruitment campaign the trust failed to recruit a permanent Chief Executive and Monitor formally intervened again in July 2009 to appoint Antony Sumara as Interim Chief Executive for a period of two years. At the same time, the trust's board of governors appointed a substantive Chair, Sir Stephen Moss.

Monitor's Board took this action to ensure the trust had experienced leadership in place to take it through the next phase of its recovery. The Interim Chief Executive and Chair have strengthened, and continue to strengthen, the Board and management of the trust. This will help ensure that the trust can sustain the progress it has made towards the delivery of improved patient care.

Monitor regularly meets with the trust Board and continues to hold the trust to account at each step towards delivery of its Transformation Programme. This programme addresses:

- the recommendations made in the original Healthcare Commission report;
- the recommendations made by Professor Sir George Alberti and Dr David Colin-Thomé;
- the recommendations made by the Francis Inquiry; and
- periodic progress reviews by the Care Quality Commission (CQC).

Over the last twelve months the trust, under the leadership of the new team and with close and regular review from Monitor, has implemented the majority of the actions in its Transformation Programme. Having completed its twelve month review, the CQC recognises that progress has been made in delivering improved care to patients. However, both the CQC and the trust agree that there is still work to do to deliver the transformation programme in full. Monitor will continue to work closely with the trust board to ensure that this is delivered in a timely and sustainable manner.

The trust's financial position has deteriorated during this period and the trust's Board is currently working with its commissioners to develop a long-term strategic plan that will ensure the sustainable delivery of high quality, safe care for its local population. Over the coming months Monitor will work closely with the trust to assess the trust's plans for financial viability, and to ensure that these plans focus on the delivery of high quality care to its patients.

Developing our own processes and systems

Alongside our ongoing scrutiny of performance at the trust, Monitor's Board commissioned our internal auditors to conduct a lessons learned exercise to identify where Monitor's processes and systems could be improved.

The internal audit report *Learnings and Implications from Mid Staffordshire NHS Foundation Trust* covered the period 1 October 2007 to 30 April 2009, and was published by Monitor in September 2009.

The report made 14 recommendations across Monitor's assessment, compliance and intervention activities, which are shown in the table below. It also considered broader structural matters related to the regulation of healthcare, recognising in particular the important relationships between different regulators.

Our Board accepted all the recommendations and agreed follow-up actions. These were set out in *Management response to the Internal Audit report on lessons learned from Mid Staffordshire NHS Foundation Trust*, which we published alongside the internal audit report. The table below summarises the actions we have taken since we published the report in September 2009. Throughout this annual report we provide further detail on the progress we have made and this summer we will publish a detailed report on our actions.

Recommendation	Summary of progress
Assessment	
1. Obtain stronger assurances at assessment on the state of quality.	Strengthened processes to support assurances on quality from the Care Quality Commission (CQC) and Department of Health before taking an authorisation decision. This includes work to agree a 'quality bar' for authorisation. These revised processes have been formalised in our memorandum of understanding and our working practices document with the CQC.
2. Stronger focus required on quality and clinical governance.	Developed our approach to the assessment of quality governance in applicant trusts, carrying out an external study, running pilot projects and consulting on our proposals. Consulted on updates to the *Guide for Applicants* to incorporate enhanced assurances on quality governance. The framework will be published in July 2010 and will apply to authorisation decisions after 1 August 2010.
Compliance	
3. Redefine the quality and clinical governance thresholds in compliance.	Revised *Compliance Framework 2010-11*, to reflect: • introduction, from 1 April 2010, of CQC's enhanced registration requirements, Quality Risk Profiles and emerging periodic review methodology; and • refined our in-depth review processes to follow up on quality governance concerns, based on developments to our approach to assessing quality governance in applicant trusts.

Recommendation	Summary of progress
Compliance continued	
4. Enhance stakeholder information flows to help assess compliance against revised thresholds.	• Strengthened process to improve information flows between Monitor and CQC. Supported by memorandum of understanding and working practices document. • Contributed to risk summits organised by CQC on clinical quality issues in NHS foundation trusts.
5. Include an evaluation of the impact NHS foundation trusts' plans have on clinical risks.	Significantly revised processes for annual submission of NHS foundation trusts' three-year plans, to improve consideration of clinical risk.
6. Provide access to clinical management skills within Monitor and via third parties.	Continued to build and develop network of qualified third party advisers, with expertise on range of clinical risk areas, combined with direct recruitment into Monitor's senior compliance team.
7. Increase the nature and level of assurance obtained on clinical data and clinical governance.	Reviewed and improved Monitor's information management systems, appointed Director of Knowledge Management and developed knowledge management strategy to improve how we use and share information. Guidance published within Monitor that set out our requirements regarding regular contact between our relationship teams and trust management.
Intervention	
8. Consolidate intervention system documentation.	Published escalation and intervention processes in *Compliance Framework 2010-11*, and developed detailed manual for our staff.
9. Document decisions not to intervene.	Revised our processes on documenting decisions not to intervene, including publishing this information in our Board minutes.
10. Enhance central documentation of events at issue trusts.	A new information management system has been developed and key parts already introduced at Monitor. Continued enhancements and development form part of Monitor's Information Project .
11. Increase the level of engagement with governors	Published *Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors* and supported a range of third parties to deliver training events for governors. Required all NHS foundation trusts to appoint a lead governor to facilitate communication in a limited number of circumstances. Developed processes to communicate with governors in event of risk of significant breach of terms of authorisation; actual significant breach of terms of authorisation; and formal intervention.

Recommendation	Summary of progress
Structural matters	
12. Continue to strengthen the capacity of the senior management structure and skills including clinical management skills.	Two Director-level appointments made within senior compliance team of individuals with significant senior experience within hospital management. Additional Director appointed, who started in role in September 2009. Provides support to both assessment and compliance teams. Structure of Compliance developed following appointment to role of Compliance Director in October 2009. This has provided additional senior capacity in Compliance. Four Portfolio Directors now report to Compliance Director and specialist restructuring, mergers and acquisition team created. Responsibility for developing regulatory approach now responsibility of Strategy, working closely with Compliance. Compliance Board Committee created, chaired by Monitor's Deputy Chairman, which includes members of the Executive and two Non-Executive Directors. Committee provides independent challenge where Monitor is considering significance of a breach of authorisation and also potential need for Monitor's Board to use its formal powers of intervention. Also considers all decisions as to whether or not a trust is likely to be in significant breach of authorisation prior to making recommendation to Monitor's Board. Continued to develop and build network of expert advisers including access to clinical and nursing skills.
13. Establish an interim recruitment process and broader network of contacts, to potentially fill interim executive positions when Monitor intervenes at foundation trusts.	Database created with pool of high quality and experienced leaders (Chairs and Chief Executives). Plans being developed to hold bi-annual networking events to continue to inform and develop best practice.
14. Make use of stakeholder dialogue to continue developing information flows and working practices.	Monitor and CQC published memorandum of understanding and working practices document. Revised memorandum of understanding drafted between Monitor and Department of Health. Monitor member of National Quality Board sub-group – shared the internal audit report and our response with the group. This has informed NQB's report *Review of early warning systems in the NHS. Acute and community services*. Continued to build and share communication (briefings, website content, etc) with key stakeholders, including commissioners, to ensure that all parties understand Monitor's role, approach and responsibilities. Published information specifically for Local Involvement Networks in February 2010, setting out role of Monitor and foundation trusts.

Developing the assessment process in 2009-10: a focus on quality

The key policy work for assessment during 2009-10 was the development of an enhanced approach to quality governance, in light of the internal audit report following events at Mid Staffordshire NHS Foundation Trust. In September 2009 we conducted an external study to look at this and sought input from a range of sources including a number of NHS foundation trusts, the Care Quality Commission, the Department of Health and Monitor's Medical Advisory Group.

One output of the study was a definition of quality governance: it is the combination of structures and processes in place, both at and below board level, which enable a trust board to manage the quality of care it provides. The term 'quality' incorporates patient safety, clinical effectiveness and patient experience. The systems in place should enable a trust to ensure relevant quality standards are met, identify sub-standard performance, drive continuous improvement, deliver best practice, and manage risks to quality of care.

In February 2010 we published our proposals in a consultation document. The proposals included requirements for applicants to provide a self-certification on quality governance, an accompanying board memorandum setting out the board's approach to quality governance, and direct evidence supporting their responses. A team of assessors subsequently assesses and evaluates the quality governance arrangements through:

- structured interviews at and below board level to assess the arrangements for managing clinical risks and ensuring ongoing improvements in standards of care;
- a review of the effectiveness of key governance meetings, including the board and sub-committees;
- a review of documents and direct evidence provided by the trust; and
- external interviews.

We piloted the approach with four NHS foundation trusts during the consultation period and the new framework will apply to authorisation decisions after 1 August 2010. Our work in this area will also inform the National Quality Board's work on improving quality governance.

During 2009-10, we continued to improve how we work with the Care Quality Commission. In addition to their organisational risk profiles that we receive twice in the assessment process, we now also incorporate into our assessment process a joint meeting with the Care Quality Commission regional team, SHA and PCT to discuss quality issues on each applicant. We have also defined how we take account of the Care Quality Commission's view as part of our authorisation criteria. In September 2009 we wrote to applicants to inform them that to be authorised as an NHS foundation trust, the risk rating attributed to the overall level of concern at the applicant trust by the Care Quality Commission must be no more than 'minor concerns'. In addition, the trust must not be under a current or planned investigation, and/or have any preliminary inquiries into mortality data. At that time, we formalised our joint approach through a memorandum of understanding, supported by a working practices document which was published in March 2010.

From 1 April 2010, we have revised these authorisation criteria to take account of the Care Quality Commission's registration process. With effect from 1 April 2010, to be authorised applicant trusts must demonstrate that:

- they are registered without compliance conditions;
- the Care Quality Commission's overall level of concern is no worse than moderate concerns and high confidence in capacity;
- the Care Quality Commission is not conducting, or about to conduct, a responsive review into compliance; and
- there is no enforcement or investigation activity ongoing or due to begin including preliminary investigations into mortality outliers.

Performance against 2009-10 business plan objectives

Business objective	Actions	Outcome
Maintain a high and consistent standard of assessment.	Provide Monitor's Board with high quality analysis and insight to inform their decisions.	**Action completed** Monitor assessed 20 applications, leading to the authorisation of 14 NHS foundation trusts, bringing the total number of NHS foundation trusts to 129 by the end of 2009-10.
	Review the financial scenarios used in the assessment process to take account of the more challenging financial environment.	**Action completed** Revised financial assumptions in March 2009 and April 2010.
	Communicate to applicants and foundation trusts our expectations for robust financial planning given the changing economic climate and implications for our regulatory approach – for example changes to economic assumptions used in assessment.	**Action completed** • Presentations given to chairs and chief executives of NHS foundation trusts and applicant trusts by members of Monitor's senior management team. • Communicated our requirements for the revised annual plan review for 2010-11, which focused on robust financial planning.
	Continue to refine the assessment approach to governance to ensure consistency with the compliance regime.	**Action completed**
	Develop an effective working relationship with the Care Quality Commission to ensure appropriate input into clinical governance and performance issues during the assessment process.	**Action completed** • Meet with regional Care Quality Commission leads as part of assessment process. • Processes agreed and formalised in memorandum of understanding and working practices document.
	Continue to refine the scope of work of independent accounting firms to ensure Monitor receives high quality, independent advice covering financial reporting procedures and working capital reviews.	**Action completed** Scope amended in March 2009 and remains appropriate.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Working with partners, support the development of trusts applying for NHS foundation trust status.	Implement a programme to share learning with strategic health authorities and applicant trusts, including best practice guidance, a programme of visits to strategic health authorities and other events as appropriate.	**Action completed** • Shared learning with unsuccessful applicant trusts and relevant strategic health authorities. • Presentation of learning to strategic health authority provider development meetings. • Monitor directors presented at Foundation Trust Network events for aspirant foundation trusts.
	Influence the Department of Health and strategic health authorities to maintain the focus on developing the pipeline of applicant trusts.	**Action completed** • Prepared proposals on how Monitor could support the Department of Health to establish a central preparation team. • Seconded two Monitor staff to assist the Department of Health to undertake a state of readiness review on four aspirant trusts at two strategic health authorities.
Ensure Monitor has the capacity and capability to conduct timely assessment of applicants aligned with the Department of Health's planned trajectory of applicants.	Continue to review the structure of the assessment team and the resources required to match capacity to the Department of Health's trajectory of applicants for 2009-10 starting assessments as soon as possible and not later than six months after the Secretary of State's referral.	**Action completed** All assessments started within six months of Secretary of State's referral.
	Finalise and apply a new methodology to assess ambulance trusts when referred by the Department of Health and potentially develop a methodology to assess providers of community services.	**Action completed** Methodology for ambulance trusts finalised. No ambulance trusts have been referred to Monitor for assessment. Methodology for community services providers in development.
	Develop and apply a new methodology to conduct shadow assessments of the three high secure mental health trusts.	**Action completed** Methodology complete and first shadow assessment under way.
	Continue to refine the assessment team training programme to develop staff capabilities.	**Action completed** Continuing professional development training provided in December 2009.

Operating a proportionate, risk-based regulatory regime

Monitor's approach to regulating NHS foundation trusts is proportionate and risk-based. Underpinning this is the principle that we hold foundation trust boards to account for the successful operation of their organisation, and for identifying and dealing with problems.

Where improvements are needed, we work closely with a foundation trust board to ensure it has plans in place to deliver these. Where it fails to do this, we will quickly take action, using our formal powers to intervene if necessary. These powers are wide ranging – we can replace members of the trust board or appoint expert advisers to support trusts, for example.

Our work in 2009-10 has been characterised by an increase in compliance activity. This reflects the increase in the number of foundation trusts we now regulate but it also demonstrates our commitment to rooting out problems at an earlier stage. Set against a backdrop of a challenging financial environment and the requirement placed on trusts to keep improving their quality of care, we have continued to evolve our regulatory approach to manage these challenges, while working effectively with partners such as the Care Quality Commission.

Developing our regulatory approach

Like the NHS foundation trusts we regulate, we work within an ever-changing healthcare context – in terms of policy, regulation and the wider economy – so we have an ongoing duty to ensure that our regulatory framework evolves and adapts to the changing landscape.

As we do each year, in 2009-10 we revised our Compliance Framework following a consultation process. The main changes to the framework were:

- the introduction (from 1 April 2010) of the Care Quality Commission's enhanced registration requirements;
- the separation of our previous *amber* governance risk rating to *amber-green* and *amber-red*, to ensure we can more accurately reflect governance risks in foundation trusts;
- an extension and redesign of service performance measures for mental health foundation trusts;
- clarification of quality governance expectations;
- the inclusion of mandatory services risk within our governance risk rating;

86%

In 2009, 86% of NHS stakeholders agreed that our Compliance Framework is fit for purpose

- the inclusion of additional financial risk indicators to enhance our assessment of future financial risk in foundation trusts; and
- the inclusion of the duty in the Health Act 2009 for NHS foundation trusts, as with all NHS organisations, to have regard to the NHS Constitution.

Quality reporting in foundation trusts' annual reports

In the past year we have put a particular focus on developing our approach to quality reporting. This built on work completed in 2008-09 when we required NHS foundation trusts to include reports on their quality objectives in their annual reports (a year ahead of the obligation for all NHS providers to produce this information).

During 2009-10, following consultation, we further developed and expanded our requirements to enhance the content of foundation trusts' annual reports. Our revised requirements were summarised in the *NHS Foundation Trust Annual Reporting Manual 2009-10*, published in April 2010.

A key part of our requirements related to quality reports. Foundation trusts were required to submit their quality accounts to the Department of Health in June 2010, but we also asked them to include a more detailed quality report in their 2009-10 annual reports, with:

- a review of performance against the priorities the trust set for 2009-10, identified in its 2008-09 report; and
- three to five priorities the trust identified for quality improvement in 2010-11.

We consulted on proposals for seeking external assurance on the quality accounts and subsequently published detailed guidance for foundation trusts and their auditors in April 2010. For 2009-10, we asked foundation trusts to carry out a 'dry-run' of our external assurance proposals on their 2009-10 quality reports. This will be evaluated over the summer prior to publishing guidance for the 2010-11 quality reports.

We also asked foundation trusts to include the following new areas in their 2009-10 annual reports:

- sustainability/climate change – providing a commentary, summary of performance and an outline of future priorities and targets;
- equality and diversity – providing a commentary, summary of performance and an outline of future priorities and targets;
- NHS staff survey – a statement of the trust's approach to staff engagement, results from the survey, with action plans to address areas of concern, and future priorities and targets; and
- their regulatory ratings from Monitor.

This focus on reporting is in line with best practice and aims to improve transparency for all readers of the annual reports, in particular patients and service users. Crucially it helps boards of foundation trusts to focus on designing and implementing effective improvement strategies. We also hope that the introduction of a common minimum set of reporting standards will assist in benchmarking between foundation trusts, providing indicators for boards on the progress they are making compared with others. Ultimately, the publication of this information should help in the development and sharing of good practice.

Preparing for the financial challenges ahead

Alongside our focus on quality, it is vital that foundation trusts' plans are responsive to the challenging financial landscape. In 2009-10 we required each trust to report on its assessment of the potential implications of a slowdown in the growth of health funding from 2011. Our aim was to ensure that boards were having the right discussions on this issue and were developing robust plans with clear strategic objectives.

Responding to future challenges – preparing for the funding squeeze

Every year NHS foundation trusts prepare a three-year plan setting out their financial and strategic plans. During 2009-10, following announcements about likely future tariff growth, we required trusts to submit downside plans which considered the likely impact of a funding squeeze, including the actions boards would take to protect clinical quality and maintain financial stability.

"Our role was as a catalyst and a facilitator, to ensure that realistic discussions were actually happening around the board tables about the implications of the future restrictions on funding," explains Alex Coull, Senior Compliance Manager at Monitor.

The process revealed that many trusts were working to unrealistic financial plans – for example with plans for activity growth – and as a result were not necessarily considering the actions they needed to plan for.

"To maintain high quality services, NHS foundation trusts have to be financially stable and must prepare for the challenges ahead," explains Alex. "Trusts must avoid unplanned cost cutting which can have a negative impact on services and often fails to reflect valuable input from front line staff. To do this, they need to be planning for more efficient use of resources while maintaining an emphasis on quality."

This was our first step in enhancing foundation trusts' approach to planning. The lack of robust planning we identified in some foundation trusts led us to revise how we ask all foundation trusts to submit their three-year plans for 2010-11. We now require a more focused document with the trust's strategy more clearly reflected in, and integrated with, its financial forecasts. Our new planning tools should ensure that any plans for efficiency improvements also reflect potential implications on service performance and quality.

The private patient income cap

During 2009-10, we amended our rules that reflect the legislation to limit NHS foundation trust income from private patient charges (the private patient income cap). This amendment followed Unison's challenge to our interpretation of the cap, which it started in September 2007. In December 2009, the Administrative Court ruled that Monitor's interpretation was not lawful and determined that the statutory cap should look, in particular, to the source of the relevant income rather than its accounting treatment. In February 2010, we published revised rules and guidance on how the private patient income cap should be operated by NHS foundation trusts. These came into effect from 1 April 2010.

Partnership working

We have continued to develop how we use the intelligence and expertise of other stakeholders in assessing whether trusts continue to comply with the conditions they signed up to. We bring together information to ensure that we have the key indicators we need to provide a comprehensive and balanced picture of the main risks in each trust we regulate. During 2009-10 we have continued to strengthen our links with a range of organisations to ensure effective information sharing, through formal agreements and regular communication.

In particular, we have worked closely with the Care Quality Commission to enhance our understanding of trusts' clinical performance and concerns related to their terms of authorisation. In September 2009 we agreed and published a memorandum of understanding with the Care Quality Commission, followed by a working practices document in March 2010, which sets the framework of the working relationship between the two organisations.

To further support joint working, Monitor is represented on the National Collaborative Group, which is organised by the Care Quality Commission and includes a number of other health partners. This group agrees the approach and framework for all risk summits. These summits are either Planned Collaborative Reviews, which are held in each strategic health authority at least once a year or one-off Triggered Risk Summits to discuss specific concerns around a particular trust. Monitor's involvement and contribution is an integral part of all the reviews and summits relating to NHS foundation trusts.

We have worked closely with the Department of Health too. We have included, as in previous years, relevant priorities from its Operating Framework in our Compliance Framework. We have continued to build relationships with its advisers on waiting times targets and healthcare acquired infections, where possible using their expertise in considering the need for any regulatory action.

Meanwhile we have continued to develop links with commissioners at primary care trusts, raising awareness of how we can work together. Primary care trusts are ideally placed to identify concerns about the foundation trusts they commission services from. This is a key area for future collaboration, always reflecting our respective roles.

We work closely with the National Patient Safety Agency, sharing information where appropriate on patient safety issues, and seeking advice on patient safety incident reporting patterns across the foundation trust sector.

Taking decisive, proportionate action

In April 2009, County Durham and Darlington NHS Foundation Trust was found in significant breach of its terms of authorisation due to governance concerns. This reflected a failure to adequately plan and implement actions to deliver its MRSA and C. difficile contractual obligations.

The trust's ongoing failure to plan and redress the situation indicated to Monitor that there were underlying governance concerns. Further investigation revealed associated issues with culture, and clinical engagement and leadership, which had remained largely unresolved over time.

"The failure to meet infection control targets highlighted potential governance concerns to Monitor. On review, it was found that the trust was not taking effective and timely action to address poor performance and as a result it was found in significant breach," explains Monitor's Senior Compliance Manager, Rupinder Singh.

Monitor worked closely with the trust and the primary care trust to measure progress and, one year on, the trust has demonstrated it has applied effective and sustainable solutions, with the number of MRSA cases dropping from 38 in 2008-09 to seven in 2009-10.

"This is evidence that the trust has designed and implemented its plan successfully, and that Monitor's escalation process was effective in holding the board to account and giving the issue the attention and focus it required," says Rupinder. "It's also a good example of a commissioner and a regulator working together for the benefit of patients."

Describing the process, Stephan Eames, the trust's Chief Executive, said Monitor was "supportive in the trust's overall approach to tackling this challenging issue. I'm pleased at the improvement that has been delivered by our dedicated staff."

Regulatory action in 2009-10

The majority of foundation trusts operated within the terms of their authorisation in 2009-10. Our approach to compliance is designed to ensure that risks are identified and actions taken promptly to resolve concerns before they become significant. However, where issues are ongoing and significant, Monitor's Board may find an NHS foundation trust in significant breach of its terms of authorisation, in which case we will gather additional evidence and consider whether further regulatory action is necessary. Our regulatory framework is designed to hold boards to account for turning around challenging situations to create sustained change.

When a trust is found in significant breach, Monitor's Board may also decide to use its formal intervention powers. These are wide-ranging and effective in ensuring an NHS foundation trust returns to full compliance with its terms of authorisation. Examples of our powers include appointing expert external advisers to support trusts, or replacing members of the trust board. In the past year, we have seen an increase in the frequency with which we have used our formal powers – on three occasions in 2008-09, to seven in 2009-10 (see pages 25-27). This rise reflects a combination of factors:

- the number of trusts we are working with (more than half of all trusts have now achieved NHS foundation trust status);
- the further development of governance indicators, and in particular requirements for continued improvements in the quality of care provided; and
- increased sharing of intelligence between regulators and other partners (such as commissioners) that can help us identify problems earlier and, where necessary, take action to address them more quickly.

Our intervention process is transparent and evidenced-based, with consistent and clear rules. Each case is dealt with on an individual basis and any use of our formal powers of intervention remains at the discretion of Monitor's Board. A situation of poor quality care or bad financial management is never acceptable and our aim is always to achieve a rapid return to compliance with the terms of authorisation which is in the best interests of patients.

The tables on the following pages summarise the instances where Monitor found foundation trusts to be in significant breach of their terms of authorisation during 2009-10, including those trusts where Monitor's Board used its formal powers of intervention.

For the latest information on the foundation trust sector, please visit our website. Each quarter we publish an overview of the performance of foundation trusts, including issues in individual trusts and the action we're taking in each case. We also publish on our website a list of foundation trusts which are in significant breach of their terms of authorisation, and a list of those foundation trusts which have demonstrated improvements and have subsequently been removed from significant breach.

NHS foundation trusts found in significant breach of their terms of authorisation and where Monitor used its formal powers of intervention

Basildon and Thurrock University Hospitals NHS Foundation Trust

The trust was found in significant breach of three terms of its authorisation in November 2009: its general duty to exercise its functions effectively, efficiently and economically, its governance duty and its healthcare targets and other standards duty. This was as a result of a number of quality concerns including high Hospital Standardised Mortality Ratios (HSMR), persistent breaches of the Hygiene Code and the Care Quality Commission's reviews of children's services and learning disability services.

Monitor used its formal powers of intervention, at the same time as finding the trust in significant breach, to require the trust to appoint external advisers, put in place key performance indicators to demonstrate progress and strengthen senior clinical leadership. Subsequently, Monitor put in place a taskforce at the trust to work closely with the trust Board, with Dr Edward Baker, Medical Director at Guy's and St Thomas' NHS Foundation Trust, leading the medical input, and Louise Boden, Chief Nurse at University College London Hospitals NHS Foundation Trust, leading the nursing input.

Since the trust was found in significant breach and Monitor formally intervened, there has been improvement against all of the quality concerns and the trust is taking appropriate steps to ensure these improvements are sustained.

We have tracked progress at the trust closely, and required it to take action where new concerns have arisen. We have worked closely with the Care Quality Commission to ensure that quality of care has improved. The trust is currently complying with Monitor's requirements and is taking appropriate steps to address the concerns. The Care Quality Commission has now lifted two of the five registration requirements placed on the trust.

Colchester Hospital University NHS Foundation Trust

The trust was found in significant breach of three terms of its authorisation in November 2009: its general duty to exercise its functions effectively, efficiently and economically, its governance duty and its healthcare targets and other standards duty. This was as a result of evidence of poor planning, a persistently high HSMR, poor national survey results and breaches of A&E, 18 weeks and cancer targets, and MRSA screening.

Monitor used its formal powers of intervention, at the same time as finding the trust in significant breach, to remove the trust Chair and appoint Sir Peter Dixon as Interim Chair.

Since the trust was found in significant breach and Monitor formally intervened, we have met with the trust monthly to track the progress being made. There has been improvement against all targets and the trust has taken steps to improve planning and governance. A permanent Chair, Sally Irvine, has now been appointed, and the trust is in the process of appointing a new Chief Executive following the resignation of the previous post-holder.

Dorset County Hospital NHS Foundation Trust

The trust was found in significant breach of a term of its authorisation in October 2009, due to a failure to comply with its general duty to exercise its functions effectively, efficiently and economically. This was as a result of a deterioration in financial performance and operational efficiency, reflected in the trust having a financial risk rating of 1 (highest risk).

Monitor used its formal powers of intervention, at the same time as finding the trust in significant breach, to appoint Jeffrey Ellwood as Interim Chair, following the resignation of the previous Chair, and to require the Members' Council to commence immediately its formal recruitment process to appoint a Chair. Jeffrey Ellwood was subsequently appointed Chair.

Since intervening, Monitor has required the trust to develop a turnaround plan that will lead to long-term financial stability and meets regularly with the trust to review progress.

The trust's financial position has stabilised but remains challenging, with its financial risk rating remaining at 1.

Heatherwood and Wexham Park Hospitals NHS Foundation Trust

The trust was found in significant breach of a term of its authorisation in July 2009, due to a failure to comply with its general duty to exercise its functions effectively, efficiently and economically. This was as a result of a rapid decline in its financial and operational performance.

The trust was required to submit a recovery plan, which was presented to Monitor in October 2009. Monitor's Board did not consider that this plan was robust enough to ensure the trust's return to a sustainable position, or that it demonstrated that the trust had in place the board and clinical leadership necessary to achieve this.

Subsequently, Monitor used its formal powers of intervention at the trust in October 2009 to appoint an Interim Chair, following the Chair's decision to stand down, and to direct the trust to appoint an Interim Medical Director in the absence of a substantive appointee to that executive position on the trust's board. This was to ensure that the trust had the board-level leadership and capacity needed to return it to a secure position, while at the same time ensuring patient care remained the highest priority. The trust has since made a permanent appointment to the role of Medical Director.

Led by the Interim Chair, the trust has developed a recovery plan which, subject to the availability of funding for the plan, will put the trust on a sustainable footing. Monitor continues to closely monitor the trust.

Mid Staffordshire NHS Foundation Trust

The trust was found in significant breach of two terms of its authorisation in March 2009: its general duty to exercise its functions effectively, efficiently and economically and the requirement to ensure the existence of appropriate arrangements to provide representative and comprehensive governance, and to maintain the organisational capacity necessary to deliver the mandatory goods and services set out in Schedule 2 to its authorisation. This was as a result of significant failings relating to quality of care, governance and leadership within the trust. See page 10 for further information.

Monitor intervened at the trust in March 2009 and appointed an Interim Chair (David Stone) and required the trust to appoint an Interim Chief Executive (Eric Morton). The key purpose of this intervention was to ensure that strategic and operational leadership was in place to stabilise the trust, enabling it to address the recommendations of the Healthcare Commission's report, and maintain and build on the momentum of the improvements that had already been achieved.

Eric Morton's appointment ended in July 2009 when he returned to Chesterfield NHS Foundation Trust. Following a recruitment campaign the trust failed to recruit a permanent Chief Executive and Monitor formally intervened again in July 2009 to appoint Antony Sumara as Interim Chief Executive for a period of two years. At the same time, the trust's board of governors appointed a substantive Chair, Sir Stephen Moss.

Over the last twelve months the trust, under the leadership of the new team and with close and regular review from Monitor, has implemented the majority of the actions in its Transformation Programme. Having completed its twelve month review, the CQC recognises that progress has been made in delivering improved care to patients. However, both the CQC and the trust agree that there is still work to do to deliver the transformation programme in full. Monitor will continue to work closely with the trust board to ensure that this is delivered in a timely and sustainable manner.

The trust's financial position has deteriorated during this period and the trust's Board is currently working with its commissioners to develop a long-term strategic plan that will ensure the sustainable delivery of high quality, safe care for its local population. Over the coming months, Monitor will work closely with the trust to assess the trust's plans for financial viability, and to ensure that these plans focus on the delivery of high quality care to its patients.

Milton Keynes Hospital NHS Foundation Trust

The trust was found in significant breach of a term of its authorisation in March 2010, namely, the requirement to ensure the existence of appropriate arrangements to provide representative and comprehensive governance, and to maintain the organisational capacity necessary to deliver the mandatory goods and services set out in Schedule 2 to its authorisation. This was as a result of concerns relating to effective, timely and pro-active design and implementation of maternity action plans, the effectiveness of board assurance processes, and board and clinical leadership.

Monitor used its formal powers of intervention, at the same time as finding the trust in significant breach, to require the trust to appoint external expert clinical advisers to assist it in accelerating the delivery of necessary improvements within its maternity service.

Working with these advisers, the trust has submitted evidence that it has met its Care Quality Commission registration conditions as they have fallen due. Monitor has been working closely with the Care Quality Commission and other stakeholders to hold the trust board to account for the delivery of changes to maternity services, clinical governance and board leadership.

Royal National Hospital for Rheumatic Diseases NHS Foundation Trust

Following progress made by the trust after two interventions in 2008-09, relating to a failure to comply with its general duty to exercise its functions effectively, efficiently and economically, Monitor intervened for a third time in April 2009 to appoint a Chief Executive to lead and manage the trust operationally and a Chair to provide strong and independent strategic leadership. This was crucial at a time when the trust continued to face significant challenges, namely:

- the delivery of a demanding recovery plan which was required by Monitor following our first formal intervention at the trust in August 2008;
- a potential merger with another organisation (which has subsequently been postponed); and
- changes to tariff, which had the potential to impact on the future financial stability of the trust.

The trust has now developed a plan, which Monitor has reviewed, that stabilises its position until its preferred long-term solution of a merger is in place.

NHS foundation trusts found in significant breach of their terms of authorisation, but not subject to formal intervention

Burton Hospitals NHS Foundation Trust

The trust was found in significant breach of three terms of its authorisation in February 2010: its general duty to exercise its functions effectively, efficiently and economically, its governance duty and its healthcare targets and other standards duty. This was as a result of governance concerns related to persistent breaches of the A&E target.

Monitor required the trust to put in place measurable plans to achieve the A&E target and to improve the governance structures in place to ensure performance is sustained.

Since the trust was found in significant breach, A&E performance has improved and the trust has worked with external experts to improve the functioning of the A&E department. The trust has taken appropriate steps to improve governance and the management of targets and Monitor meets with the trust regularly to review performance and governance.

Gloucestershire Hospitals NHS Foundation Trust

The trust was found in significant breach of two terms of its authorisation in September 2009: its general duty to exercise its functions effectively, efficiently and economically and its healthcare targets and other standards duty. This was as a result of the trust's failure to address persistent breaches of the A&E and Thrombolysis targets and weak financial performance.

Since the trust was found in significant breach there has been an improvement in performance against the A&E target. However, the trust's financial position has deteriorated leading to a deficit at year-end.

Monitor required the trust to undertake a self-certification review to understand why the trust failed to declare the risk of failure against the A&E target. Monitor recommended that the trust seeks third party assurance on its financial plans. Monitor meets with the trust regularly to review the progress being made to its financial position.

Heart of England NHS Foundation Trust

The trust was found in significant breach of three terms of its authorisation in January 2010: its general duty to exercise its functions effectively, efficiently and economically, its governance duty and its healthcare targets and other standards duty. This was as a result of governance concerns related to persistent winter breaches of the A&E target and a failure to deliver the target at two of three hospital sites throughout the year.

Monitor required the trust to put in place measurable plans to achieve the A&E target and to provide assurance that improvements in performance would be sustained.

Since the trust was found in significant breach it has worked with external experts to change the operation of A&E in order to improve performance. The trust has made good progress.

The Dudley Group of Hospitals NHS Foundation Trust

The trust was found in significant breach of three terms of its authorisation in December 2009: its general duty to exercise its functions effectively, efficiently and economically, its governance duty and its healthcare targets and other standards duty. This was as a result of a persistent failure to address governance concerns and the delivery of the A&E target.

The trust appointed a new Chief Executive in October 2009 to provide operational leadership. The trust met the A&E target during quarter four of 2009-10 and has engaged advisers to improve the way in which its board functions.

Monitor has held regular meetings with the trust board since December to track improvements in both these areas against key performance indicators agreed with the trust.

Wrightington, Wigan and Leigh NHS Foundation Trust

The trust was found in significant breach of two terms of its authorisation in February 2010: its governance duty and its healthcare targets and other standards duty. This was as a result of governance concerns related to persistent breaches of the A&E target.

Monitor required the trust to put in place measurable plans to achieve the A&E target and to improve the governance structures in place to ensure performance is sustained. Since the trust was found in significant breach, A&E performance has improved and the trust has worked with external experts to improve the functioning of the A&E department.

The trust has undertaken a Board to Ward governance review that is due to report in late July 2010. This report is expected to highlight further areas for improvement in the trust's internal governance structures.

In the table below are the foundation trusts which were found in significant breach of their terms of authorisation during 2009-10, and which have subsequently been removed from significant breach.

Aintree University Hospitals NHS Foundation Trust

The trust was found in significant breach of its terms of authorisation in June 2009 due to governance concerns and its C. difficile performance.

Having demonstrated to Monitor that it had taken action to address these concerns, and in particular to achieve its 2009-10 target, the trust was removed from significant breach in February 2010.

County Durham and Darlington NHS Foundation Trust

The trust was found in significant breach of its terms of authorisation in April 2009 due to governance concerns and its failure to deliver its contractually agreed MRSA and C. difficile targets for 2008-09.

Having demonstrated to Monitor that it had taken action to address these concerns, and in particular to achieve its 2009-10 target, the trust was removed from significant breach in February 2010.

Northern Lincolnshire and Goole Hospitals NHS Foundation Trust

The trust was found in significant breach of its terms of authorisation in April 2009 due to governance concerns and its MRSA performance.

Having demonstrated to Monitor that it had taken action to address these concerns, and in particular to achieve its 2009-10 target, the trust was removed from significant breach in February 2010.

University Hospital of South Manchester NHS Foundation Trust

The trust was found in significant breach of its terms of authorisation in July 2009 due to governance concerns and its MRSA performance.

Subsequently the trust breached its terms of authorisation due to 18 weeks and A&E performance. In addition, following the resignation of three NEDs, further general governance concerns arose in relation to board effectiveness. This has precipitated a turnaround at the trust with new NEDs being recruited and improvements in the governance structures in place at the trust. Healthcare targets for MRSA, A&E and 18 weeks have come back into compliance.

After the trust was found in significant breach, it was required to improve its focus on healthcare standards, and also to improve the governance structures in place, and this has led to the turnaround of the trust's position. In June 2010, the trust was removed from significant breach as a result of the progress it has made.

Transactions – mitigating risks

In 2009 Monitor was required to consider a major transaction in which South Essex Partnership University NHS Foundation Trust (SEPT), a high-performing foundation trust, acquired the business of Bedfordshire & Luton Mental Health and Social Care Partnership NHS Trust (BLPT) – a trust that was struggling to meet quality and governance standards on a sustainable basis.

This was a significant transaction that would almost double the size of SEPT. Monitor carried out a detailed risk evaluation and also considered what, if any, action was required based on the advice received from the Co-operation and Competition Panel.

"Our role was not to approve significant investments, but to consider how the proposed investment may affect the risk profile of SEPT," explains Craig Watson, Assessment Manager at Monitor. "By highlighting the key risks, we were able to challenge the board to make an informed decision about the basis on which it was willing to enter into the transaction."

An acquisition of this nature, if it is properly structured and the risks fully understood, can benefit everyone involved, explains Craig: "For SEPT, it offered cross-fertilisation of clinical expertise and models of care. It also made sense financially, as without an acquisition of this size SEPT may have struggled to deliver efficiency initiatives without the benefit of economies of scale.

"Meanwhile, BLPT will benefit from an experienced and engaged management team with a track record of running a high performing trust, along with all the advantages of NHS foundation trust status. For the local community, this means targeted local investment and better quality services."

Managing risk in transactions

NHS foundation trusts benefit from increased freedoms, with scope to raise finance, undertake transactions such as mergers and acquisitions and make investments. These are intended to encourage service developments and innovations that benefit patients.

Large-scale mergers and acquisitions have inherent risks and our role in this area is to ensure that NHS foundation trusts do not jeopardise their quality of services or financial stability. We work with trusts to make sure they understand the risks and, where necessary, mitigate them. We do this by rating risks of major transactions, leaving boards to put in place strategies and mechanisms to mitigate any material risks.

We anticipate an increase in the numbers of transactions as trusts seek to re-design services. We are also working to identify ways to incentivise considered risk-taking, to ensure that NHS foundation trusts have the confidence to innovate and move forwards despite the inherent challenges. However, it remains the role of NHS foundation trust boards to design strategies. Monitor's role is to ensure that, following any transaction, the new entity is likely to continue to meet the terms of its authorisation in the interests of its patients or service users.

De-authorisation

During summer 2009, the Government consulted on its initial proposals relating to the de-authorisation of NHS foundation trusts. Following responses from Monitor, the Foundation Trust Network and others, the proposals were amended and passed into law as the Health Act 2009.

To date, not all of the Health Act 2009 is in force. However, Monitor is able to consult on how it proposes to apply the statutory de-authorisation criteria. We issued a consultation document in March 2010 setting out our view. The consultation closed in May 2010 and we intend to publish guidance in summer 2010. Once the guidance is published, the relevant statutory provisions will come fully into force. Currently, under the Health Act 2009, Monitor can initiate de-authorisation if an NHS foundation trust is failing to comply with a notice served under section 52 of the Health Service Act 2006, and further such notices would not secure recovery of the trust.

Performance against 2009-10 business plan objectives

Business objective	Actions	Outcome
Continue to develop Monitor's compliance regime to regulate an increasing number and range of NHS foundation trusts.	Review and develop escalation and delegation procedures to address governance and finance issues.	**Action completed** • Escalation and intervention process published in *Compliance Framework 2010-11*; and • Internal manual circulated to teams in April 2010.
	Ensure that relationship teams have the capabilities to support increased delegation of authority as appropriate to handle issues in NHS foundation trusts and that the team structure supports this.	**Action completed** Compliance team reorganised to be best placed to meet future challenges of an increased number of NHS foundation trusts, including: • appointment to role of Compliance Director; • appointment of three additional Portfolio Directors (one of which is a temporary role to cover maternity leave); and • appointment of a new Knowledge Management Director and development of Knowledge Management Team to support relationship teams.
	Refine forward-looking financial measures and indicators to ensure that risks are identified as early as possible.	**Action completed** • *Compliance Framework 2010-11* published in March 2010 with indicators of potential future financial risk; and • designed new planning template for annual plan process 2010-11.
	Build and develop relationships with a network of advisers, including specialist teams within the Department of Health.	**Action completed** Database in place and network expanded.
	Develop and consult on the compliance requirements for ambulance NHS foundation trusts for 2010-11.	**Action completed** Published in *Compliance Framework 2010-11*.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Evolve governance indicators in the compliance regime.	Work with other regulators to develop and integrate common governance risk indicators.	**Action completed** • developed a memorandum of understanding with the Care Quality Commission, followed by a working practices document; • used the main objectives from Department of Health's *Operating Framework* to ensure common governance risk indicators are included in the *Compliance Framework*; • contributed to National Quality Board's *Review of Early Warning Systems in the NHS*; • shared information with the National Patient Safety Agency; and • developed a memorandum of understanding with the Parliamentary and Health Service Ombudsman (published April 2010).
	Develop and consult on governance risk indicators to include in the *Compliance Framework* for 2010-11.	**Action completed** Published in the *Compliance Framework* for 2010-11.
Develop reporting for NHS foundation trusts.	Review and update the reporting requirements on quality for 2009-10 to reflect the introduction of quality accounts.	**Action completed** Consulted on requirements in November 2009 and published final guidance in March 2010.
	Develop an effective reporting and assurance framework for reporting on corporate social responsibility.	**Action completed** Consulted on requirements in December 2009 and published final guidance in March 2010.
Capture and use relevant information effectively.	Develop relationships with key stakeholders, in particular primary care trusts and strategic health authorities, to share information to support the regulatory regime and better understand regional risks.	**Action completed** • memorandum of understanding and working practices document agreed with Care Quality Commission; • continued to develop links with commissioners at primary care trusts; and • developed links with strategic health authorities: contributed to risk summits organised by the Care Quality Commission's National Collaborative Group.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Capture and use relevant information effectively.	Develop information tools and architecture with supporting information technology to facilitate partnership working, information sharing and reporting and the development and retention of relevant databases and knowledge.	**Action completed** Director of Knowledge Management appointed and three-year strategy developed.
Build an effective working relationship with the Care Quality Commission.	Develop and publish a Memorandum of Understanding with the Care Quality Commission.	**Action completed** Published in September 2009.
	Establish operational relationships to support information sharing and coordinating activities where appropriate.	**Action completed** Actions supported by working practices document published in March 2010.
	Agree a joint approach to escalate and intervene in NHS foundation trusts in the event of service performance or quality concerns.	**Action completed** Incorporated in working practices document, with some areas of detail to be worked up in practice.
Ensure that the regulatory regime takes account of incentives and disincentives.	Review incentives and disincentives in the regulatory regime and seek to minimise any unintended or undesirable disincentives.	**Action completed** Reviewed as part of *Compliance Framework* update.
Support the development of improved strategic planning and risk management.	Consult on guidance for the preparation, and review procedures and timing, of the annual planning processes to ensure timely and comprehensive planning cycles.	**Action completed** Revised templates and guidance issued (as our fundamental approach did not change, we did not formally consult on proposals).

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Assess major investments, mergers, acquisitions and all other transactions with significant risks.	Assess major investments, mergers and acquisitions and all other transactions with major risks as required.	**Action completed** Assessed the following: • University College London Hospitals – major investment to build a £100 million Ambulatory Cancer Centre, which will replace the existing facilities to meet an anticipated increase in the number of cancer patients in future years and improve service delivery; • Northumbria Healthcare NHS Foundation Trust – major investment to purpose build emergency hub to centralise emergency care on one site; • The Newcastle Upon Tyne Hospitals NHS Foundation Trust – major investment to build a Transplantation Institute; • South Essex Partnership University NHS Foundation Trust acquired the business of Bedfordshire & Luton Mental Health and Social Care Partnership NHS Trust; and • transfer of Barking & Dagenham Primary Care Trust's provider arm to North East London NHS Foundation Trust.
Implement effective competition policy within the NHS foundation trust sector.	Agree and implement approach to responding to recommendations from the Co-operation and Competition Panel and enforcing decisions on competition issues within the NHS foundation trust sector.	**Action completed**
	Ensure access to specialist legal advice to support decisions.	**Action completed**

Promoting the development of well-led NHS foundation trusts

For NHS foundation trusts to succeed, strong leadership at the top of their organisations is essential. The board sets the direction, culture and strategy of a foundation trust and is accountable for performance. Boards have a challenging agenda to pursue; their trusts must deliver excellent patient care and real efficiency gains, even as health spending growth slows significantly.

Over the past year we continued to work with partners such as the NHS Institute for Innovation and Improvement to encourage the development of training and good practice tools that help strengthen the capabilities of boards and senior management teams.

Focus on quality and patient safety

Quality has been a central focus of our work during the past year, reflecting the high priority of this agenda across the NHS following Lord Darzi's *Next Stage Review* in 2008.

Following our work in 2008-09 with seven acute NHS foundation trusts on the board's role in leading quality improvement, we conducted a second wave of projects with three mental health trusts.

In 2009-10, we also worked with four NHS foundation trusts on how their boards can drive patient safety improvements. The project provided these boards with a valuable opportunity to review the latest thinking on patient safety, understand best practice in the field, review current trust performance, and develop trust-specific action plans to improve performance. A summary of lessons learned was published in June 2010. More detail on this work at Cambridge University Hospitals NHS Foundation Trust is on page 38.

In February 2010, we ran a national one-day conference, *Quality Matters*, building on the success of a similar event in 2009. The agenda focused on the role of senior clinicians in delivering sustainable service improvements. Leading speakers in the field, including Dr David Pryor, Chief Medical Officer at Ascension Health, Professor Tim Ferris, Associate Professor of Medicine at Massachusetts General Hospital and Professor Sir Bruce Keogh, NHS Medical Director, shared their perspectives. 96% of delegates rated the conference 'good', 'very good' or 'excellent'.

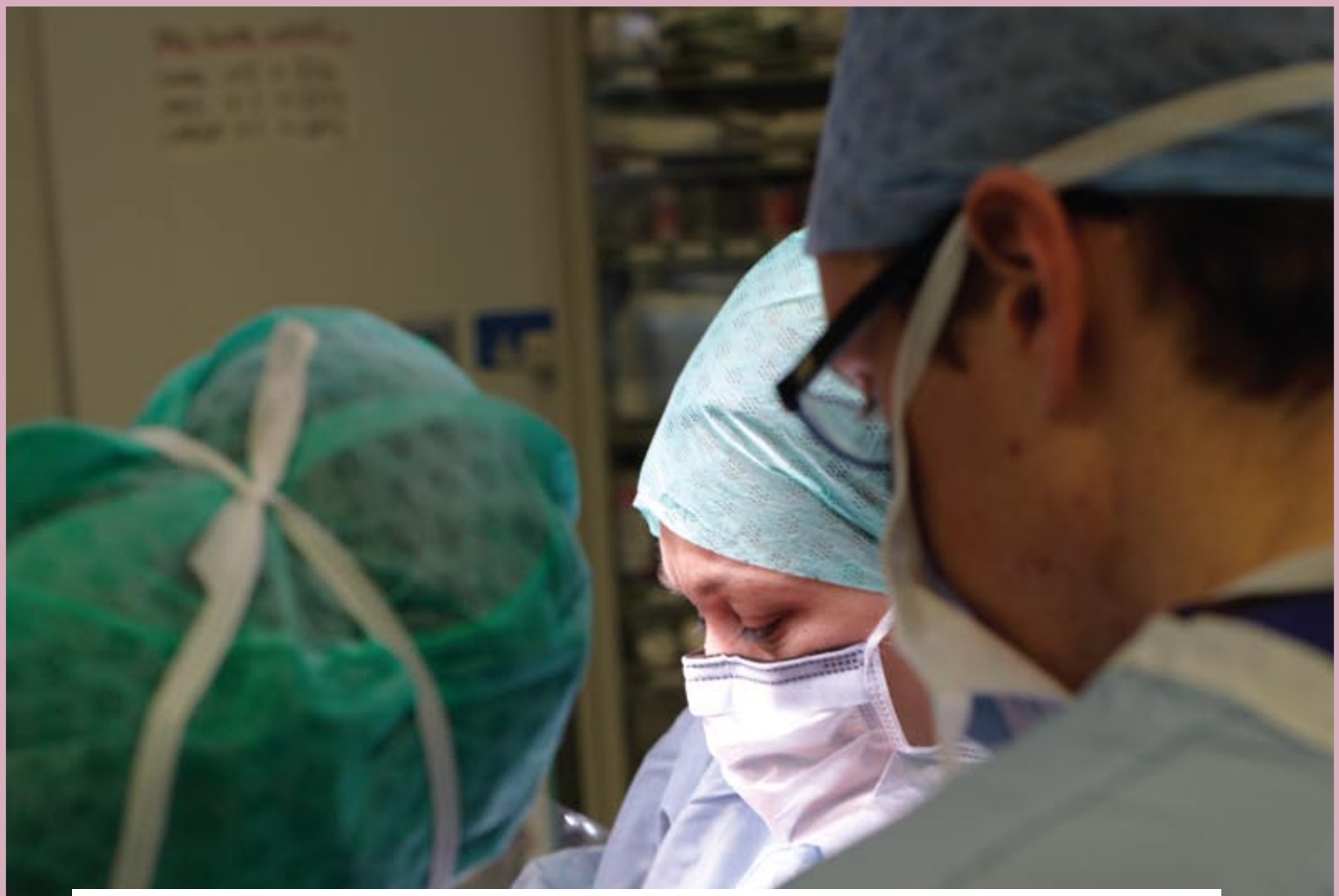
Improving governance

We have developed a mandatory induction programme for chairs and chief executives who are new to NHS foundation trusts and have not been through our assessment process. This short programme explains Monitor's regulatory requirements and promotes effective governance. It is a practical course, looking at areas where some trusts have had governance-related issues, and providing recommendations on how these can be avoided.

In February 2010, we worked in partnership with the Appointments Commission, Department of Health, strategic health authorities, NHS Institute for Innovation and Improvement and NHS Confederation to run a conference for NHS chairs. This third annual conference provided an opportunity for chairs to meet, hear from and participate in discussion with key leaders on major issues in the healthcare sector.

Local accountability is a fundamental part of the NHS foundation trust model and governors make a vital contribution by appointing the majority of the board of directors and holding them to account. In 2009-10 we developed a range of communications for governors to help them better understand their role and carry out their statutory responsibilities more effectively. In October 2009, we published *Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors*, alongside a leaflet explaining our role and how we work with governors, and we set up a bespoke area of our website with signposts to key publications and tools.

We have also supported our partners in delivering training events for governors. We have presented at a number of governor events over the past year, run jointly by the Foundation Trust Network and Foundation Trust Governors' Association. We also participated in a National Development Day run by the Foundation Trust Governors' Association, and have worked with the Appointments Commission to run training programmes on a range of specific governor responsibilities such as appointing chairs and non-executive directors.



Helping boards drive patient safety improvement

Cambridge University Hospitals NHS Foundation Trust was one of four NHS foundation trusts that worked on a pilot project looking at how boards can drive safety improvements.

The work drew on the latest thinking on patient safety, including published best practices and interviews with national and international experts in the field. This was combined with a programme of interviews and focus groups, to produce a trust-specific diagnosis on patient safety.

Findings from the project indicated that significant progress on patient safety had been made at the trust over the past few years. The trust had dedicated a number of resources to the patient safety agenda and has recently launched a Patient Safety Strategy to continue to make progress. Interviews and focus groups demonstrated that staff recognise and appreciate the changes achieved.

However, the diagnostic work also suggested interventions that could be put in place to make further improvements. The board prioritised a small number of these for implementation, including:

- reviewing nursing rostering systems to improve allocation of staff to ensure areas are covered safely at all times and reviewing medical cover to ensure 24-hour senior service provision;
- reviewing the trust's communication approach to improve dissemination of patient safety information including Executive walk-abouts and weekly Executive meetings that focus on patient safety;
- improving the feedback process to staff on outcomes and lessons learned from reported incidents, including processes to improve follow-up on agreed actions, for example, safety directives;
- consulting with junior doctors to understand and overcome barriers to engagement with, and awareness of, the patient safety agenda; and
- consolidation of safety-related topics and metrics in a single, integrated board safety report and prioritisation of these metrics.

Jag Ahluwalia, Medical Director at the trust, is positive about the impact: "The project provided focused and constructive challenge, independent validation of progress, and identified areas to develop further."

During 2009 we worked with the NHS Institute for Innovation and Improvement to introduce training for non-executive directors. This course is delivered by Cass Business School and Manchester Business School and nearly 150 non-executive directors have attended the course so far.

We have also collaborated with the Foundation Trust Network and Cass Business School to develop a programme for company secretaries, who play a pivotal role in the administration of good governance.

Promoting productivity

An important aspect of our work in enabling the effective leadership of NHS foundation trusts is our continued commitment to developing the model of service-line management. Using this approach, a trust identifies specialist clinical areas and manages them as distinct operational units, with clinicians leading on delivery. This way of working should improve quality, efficiency and patient satisfaction.

During 2009-10, service-line management has been further rolled out in a number of organisations. Additionally, a series of pilot studies were undertaken which introduced service-line management into mental health NHS foundation trusts. This has led to greater transparency of costs and clinical engagement in the running of these trusts. As part of the project, innovative work on pathways and organisational structure was carried out, in order to better understand the patient experience.

Performance against 2009-10 business plan objectives

Business objective	Actions	Outcome
Help governors to understand their role and how to exercise their statutory responsibilities and NHS foundation trusts to engage with their membership.	Increase communications aimed at governors to help them understand their role and how to exercise their statutory responsibilities.	**Action completed** • Published *Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors*, and an easy-read version *What the law says you have to do*; • published a leaflet explaining Monitor's role and how we work with governors; • set up a designated web area, providing links to relevant publications and tools; and • presented at a number of regional meetings and training events for governors.
	Encourage third parties to develop support programmes for governors including publications and events.	**Action completed** Throughout the year worked alongside the Foundation Trust Network and Foundation Trust Governors' Association, at a number of events for governors, to promote a better understanding of the statutory duties governors must discharge.
	Design and conduct a survey of governors to assess progress.	**Scheduled for 2010-11** Will be undertaken in the autumn of 2010 (12 months after the publication of *Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors*).
	Analyse compliance with and review the *Code of Governance*.	**Action completed** Revised *Code of Governance* published March 2010.
	Scope a project to understand best practice amongst NHS foundation trusts in building membership numbers and engaging with members.	**Scheduled for 2010-11**

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Support boards of directors to lead improvements in quality and productivity.	Scope, design and pilot an induction programme for chief executives and chairs.	**Action completed** Two programmes (now part of *Compliance Framework*) delivered for those new to the role of NHS foundation trust chair or chief executive.
	Working with others, scope, design and pilot a training programme for medical directors to support them to exercise their role on the board of directors.	**Scheduled for 2010-11**
	Roll out the training programme for non-executive directors.	**Action completed** Two training programmes established for non-executive directors (NEDs) – one delivered by Cass Business School and one by Manchester Business School. Nearly 150 NEDs have to date been through the programme.
	Develop and promote the board's role in managing quality in the NHS foundation trust sector.	**Action completed** Pilots carried out addressing various aspects of quality improvement at board level, building on our work in establishing quality accounts and focusing on three aspects of quality at board level: the board's role in quality management; the board's role in designing and implementing an effective safety strategy; and how the board can improve patient satisfaction levels.
	Explore opportunities to promote productivity in the NHS foundation trust sector.	**Action completed** Various seminars and workshops have taken place with topics including: linking cost to quality; reducing length of stay; reducing variation; improving day case rates; better procurement; and smarter use of IT to improve better understanding of data. Over 150 Executive Directors have attended these workshops.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Support boards of directors to lead improvements in quality and productivity.	Support boards of directors to understand competition policy and the implications of decisions taken on competition matters.	**Action completed** Executive chairman gave presentations on competition policy to a range of stakeholders. To reflect the ongoing communication requirement, this action has been carried forward into the *Business Plan 2010-11*.
Develop the model for service-line management and promote its adoption across the NHS.	Scope and develop new modules on quality including safety, clinical effectiveness and patient experience.	**Action completed** Twelve pilots carried out, looking at the key component parts of the quality agenda. This included conducting primary research and building practical implementation strategies for each of the pilots involved.
	Publish good practice on the development and use of a balanced scorecard including quality (safety, clinical effectiveness and experience) and staff satisfaction.	**Scheduled for 2010-11**
	Promote, design and commission an NHS Business Academy to support clinicians to develop the business skills to lead service lines.	**Action in progress** Progress has been made on this topic, and funding discussions are underway with the Department of Health, SHAs and National Leadership Council.
	Focus communications activities on promoting the benefits of service-line management (SLM) to boards and clinicians to encourage widespread adoption of the approach.	**Action completed** • held a national one-day conference for clinicians in February 2010; • held a joint conference on SLM with the Audit Commission in November 2009 for mental health trusts; • developed the SLM area of Monitor's website, including the publication of five toolkits; and • distributed an e-bulletin on SLM.
	Evaluate progress made in encouraging the adoption of service-line management in the NHS foundation trust sector.	**Action in progress** A study is under way to assess how Monitor's development of SLM has impacted on the foundation trust sector.

Contributing to and influencing the development of an affordable, devolved healthcare system

NHS foundation trusts are an integral part of the reform of healthcare services, with their freedom to invest and innovate, and their accountability to local communities. To maximise their potential to improve patient care, the environment in which foundation trusts operate must be part of this reform agenda: there must be effective commissioning, real patient choice, and a payment system which rewards efficiency and quality improvements.

A key focus for Monitor in 2009-10 has been to work more effectively with stakeholders across the healthcare system.

In 2009-10 we worked with a wide range of partners to develop NHS foundation trusts, and the wider healthcare setting in which they operate, to deliver the vision of an affordable, devolved healthcare system. Specific projects focused on helping foundation trust boards drive quality improvements across the NHS and supporting providers to plan for the forthcoming financial pressures facing the sector.

Promoting quality

Our work on quality is underpinned by our contribution to the National Quality Board – a multi-stakeholder board established by the Department of Health to champion quality and develop a national, coherent quality framework. As a member of the board, we played a key role in its approach to developing quality accounts, following our introduction of the requirement for NHS foundation trusts to produce quality reports in 2008-09, a year ahead of the national requirement. We also supported the board's work on quality assurance of quality accounts. Using our knowledge and expertise as a regulator, we contributed to *Review of Early Warning Systems in the NHS*, a report published by the National Quality Board that describes the roles, processes and behaviours which make up a system for the early detection and prevention of serious failures.

During 2009-10, a core part of our work was to develop our knowledge and approach to the assessment of quality governance in applicant trusts (further details can be found on page 14). These projects were part of a major programme of work to further enhance our systems and processes following the failings at Mid Staffordshire NHS Foundation Trust (see pages 10-13).

Responding to financial pressures

Following a decade of significant growth in health expenditure, we are now moving into a period where spending will grow much more slowly in real terms. This will have a serious impact on the way trusts operate, as they will need to improve efficiency while at the same time improving the quality of their services.

As described previously in this report, we have taken a number of steps to encourage NHS foundation trusts and applicant trusts to respond to this challenge. We have upgraded the annual planning round for foundation trusts, and revised the financial assumptions we use in our assessment process.

We are also supporting the Department of Health's work on the quality, innovation, productivity and prevention (QIPP) challenge. This encourages and promotes innovation and prevention at a local level, to support quality and productivity gains in a tighter economic climate. Each strategic health authority is developing a regional response to the QIPP challenge and there are 12 national work streams (in which we are participating where appropriate) covering safety, commissioning and patient pathways, provider efficiency and system enablers (e.g., technology). These work streams support local NHS organisations and clinical teams. Our work with the National Quality Board and colleagues working on the QIPP agenda is evidence of how effective partnership working can bring about coordinated and sustained change.

Monitor's research has demonstrated that our regulatory activities themselves improve foundation trusts' efficiency, as detailed in our study, *Measuring Monitor's Impact*, published in September 2009. The report highlights improvements in performance at NHS foundation trusts as a consequence of both Monitor's assessment process and its risk-based approach to regulation. We found that the effect of our activity on financial performance and efficiency is most clearly visible when applicant trusts enter the assessment process and when we have intervened at financially challenged foundation trusts. Key findings include:

- Monitor's decision to defer some NHS trusts from achieving foundation trust status resulted in these organisations re-visiting their business plans. This led to cumulative savings of £279 to £373 million by 2012-13 across nine case studies in the report;
- Monitor's assessment process has delivered improved efficiency in foundation trusts which resulted in an increase in surplus income margins of 0.8%, and a 7% increase in efficiency in day cases – these improvements are worth approximately £130 million up to 2007-08; and
- the compliance regime has resulted in financially challenged foundation trusts turning around performance rapidly and delivering savings as a result.

Influencing competition policy

An important piece of partnership work involved contributing to the process to review the *Principles and Rules for Co-operation and Competition*. The Department of Health issues these rules, and it is the role of the Co-operation and Competition Panel to advise on their application, and for Monitor to take any necessary enforcement action involving NHS foundation trusts. The Department of Health and Monitor jointly sponsor the panel.

During the review of the rules in 2009-10, the Department of Health ran a series of public workshops, to which we contributed. We also held fortnightly meetings with the Department of Health to provide advice and insight into how the rules were developed around competition issues – particularly the pace at which competition oversights should be introduced into the sector. In March 2010 the Department of Health issued a new version of the rules, which are planned to take effect in October 2010, following Monitor's consultation on them.

We have also worked closely with the Co-operation and Competition Panel itself, giving a view on the application of the rules in a range of cases, including in the context of restrictions on consultants' use of their non-contracted hours. The panel has made specific recommendations on a number of formal cases arising under the rules that affect NHS foundation trusts, all of which Monitor has accepted.

Performance against 2009-10 business plan objectives

Business objective	Actions	Outcome
Contribute to and influence policy development, supported by economic analysis, and assess its implications for NHS foundation trusts.	Set out the implications for healthcare reform following the publication of *High Quality Care for All* for the NHS foundation trust sector.	**Action replaced** Following the events at Mid Staffordshire NHS Foundation Trust, Monitor conducted a lessons learned exercise leading to significant changes to our approach in assessment to quality performance and quality governance issues.
	Contribute to the development of a coherent quality framework with effective incentives for NHS foundation trusts through the National Quality Board.	**Action completed** • contributed to the National Quality Board's publication *Review of Early Warning Systems in the NHS*; and • introduced quality reports for the NHS foundation trust sector.
	Support the development of effective economic regulation by: • contributing to the review of the *Principles and Rules for Co-operation and Competition*; • making the case for a more reliable, independent tariff setting process; and • making the case for a more efficient, transparent allocation of capital.	**Action completed** Revised *Principles and Rules for Co-operation and Competition* published in March 2010. We contributed to discussions on tariff development and capital expenditure controls.
	Consider the implications of a more challenging financial environment and identify effective responses.	**Action in progress** Enhanced our approach to the annual planning process to help foundation trusts respond appropriately to tougher finances. This included using financial modelling to identify at risk trusts for early discussions in preparation for the planning round. We are contributing to a number of national Department of Health-led projects on this issue.
Work in partnership with the Department of Health and the Care Quality Commission to set the policies for regulating the healthcare system.	Maintain strong working relationships with the Department of Health, NHS leadership, HM Treasury, Number 10, the Co-operation and Competition Panel and strategic health authorities.	**Action completed** We have worked closely with the Department of Health to develop our approach to regulation and ensure alignment with the policy agenda, particularly through the NQB and our joint sponsorship of the CCP. Monitor and CQC agreed an MoU and a more detailed Working Practices document during the year. Frequent interaction takes place at leadership, policy and operational level.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Work in partnership with the Department of Health and the Care Quality Commission to set the policies for regulating the healthcare system.	Work with the Department of Health and the Care Quality Commission to align our annual planning cycles.	**Action completed** Reflected CQC's approach to registration and Quality Risk Profiles into our *Compliance Framework 2010-11*.
	Work with the Department of Health to ensure that the *Compliance Framework* and *NHS Operating Framework* are properly aligned to support the delivery of the Government's key national priorities in the context of NHS foundation trusts' autonomies.	**Action completed** We continue to work successfully alongside Department of Health to ensure that the *Operating Framework* and *Compliance Framework* are properly aligned.
	Ensure that Monitor and the Care Quality Commission adopt a clear and consistent approach to regulating the healthcare sector.	**Action completed** The respective roles of Monitor and the CQC are set out in the NQB report *Review of Early Warning Systems in the NHS* and converted into a practical approach through our joint MoU and working practices document. Further work to be done on coordinating interventions and effectively communicating our joint approach to regulation to the foundation trust sector.
Communicate with key stakeholders to ensure that they understand Monitor's role and its contribution.	Develop shared communications with the Care Quality Commission to be clear about our roles and how the regulatory system works.	**Action completed** Established regular meetings, as outlined in the working practices document. Issued joint press releases on regulatory action at two NHS foundation trusts: Basildon and Thurrock University Hospitals, and Tameside Hospital.
	Develop Parliamentarians' understanding of NHS foundation trusts' autonomies and Monitor's role.	**Action completed** Guide to Monitor for Parliamentarians and their researchers published in January 2010. Bespoke letter, detailing performance of constituency NHS foundation trusts sent to all MPs, accompanied by quarterly reports on the foundation trust sector.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Communicate with key stakeholders to ensure that they understand Monitor's role and its contribution.	Develop Parliamentarians' understanding of NHS foundation trusts' autonomies and Monitor's role.	**Action completed** Letters sent to constituency MPs in event of significant breach/intervention, detailing reason for Monitor's action and offering further briefing. Briefings between Monitor and MPs offered and carried out.
	Deliver Monitor's influencing strategy successfully, working with key stakeholders and supporting the Executive Chairman.	**Action completed** Continued to develop relationships at senior level across policy and healthcare. Focused on systemising planning and feedback via meetings with Monitor's leadership team to identify key future meetings and map these against policy objectives.
	Develop better understanding of Monitor's role and activities for senior clinicians in NHS foundation trusts, supported by the Medical Advisory Group.	**Action in progress** Held a national one-day conference for clinicians in February 2010. Promoted our online SLM toolkits to clinicians. To reflect the ongoing communication requirement, this action has been carried forward into the *Business Plan 2010-11*.
	Undertake stakeholder research and media analysis to assess perceptions and track progress.	**Action completed** Annual perception survey among NHS stakeholders completed in September 2009. Bi-annual survey among MPs completed. Media analysis completed on a quarterly basis.
Develop a programme of economic analysis.	Conduct a review of the NHS foundation trust sector to understand performance to date and start to track this against key metrics.	**Action completed**
	Develop an approach to evaluate economically the impact of Monitor's regulatory regime, competition decisions, assessment process and development activities.	**Action in progress**

Continuing to improve as a high-performing organisation

We believe Monitor is a high-performing organisation. We strive to maintain this, developing our staff and managing our resources to be as effective as possible, while remaining flexible to respond to future change.

A focus of our work in 2009-10 has been to develop and enhance our compliance team and processes. This is our core area of activity and one of increasing scale and complexity. The past year has also been a significant time of change internally at Monitor. We have new leaders in place at the top of our organisation, and we are taking steps to develop how we work at both an operational and cultural level.

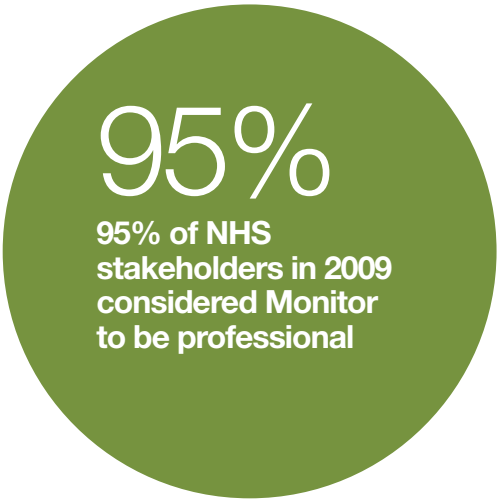
An evolving culture

There was an opportunity to celebrate success in 2009-10 when Monitor won a place in the Sunday Times Best 75 Public Sector Employers list, ranking 24th overall. Monitor was described as 'healthy and well' as an employer, and scored particularly highly for 'giving something back', a factor which explores how much people think their organisation puts back into society.

Nevertheless, we recognise that we need to continually develop and improve as an employer. We are operating in a very different environment from when we were established in 2004. We now regulate over half of the acute and mental health sector, so our primary focus is our compliance activities, where we are dealing with increasingly complex issues. Meanwhile, there is more fluctuation around the level of work in particular areas – for example, the number of applicant trusts has decreased, while the number of mergers and acquisitions is expected to grow.

To adapt to these changes, it is vital that we continue to work in a flexible way, with an empowering management style so we can use the skills of our staff most effectively. In 2009-10, we completed the scoping and development phases of a major organisational development programme, *Mapping our Future*. This aims to ensure that we are organised in a way that allows us to respond appropriately to the changes in volume and complexity of the work we manage, introducing a more flexible, project-based resource model. In addition, the programme will improve team working and delegation, streamline processes, and strengthen people management and development.

Building on work completed in 2008-09, we have also taken further steps to develop a coaching approach to how we manage and develop staff.



Coaching encourages a more communicative and empowering management style, supporting staff to develop improved problem-solving skills and to take greater ownership of issues and challenges.

To support this, a coaching approach was incorporated in the competency framework we introduced for all staff in May 2009. This framework forms an integral part of our performance management processes. It provides a set of skills and behaviours determined as integral to Monitor's success, which staff and managers use to assess and drive performance.

Our activities described above will help us address the two lowest ranking factors in the Sunday Times Best 75 Public Sector Employers survey. These were 'My Team' and 'My Manager' which measure how staff feel about a range of issues including team spirit and support from their manager. Key to addressing these challenges are improving both inter- and intra-team working and people management across Monitor, which the *Mapping Our Future* and coaching initiatives aim to achieve. Our entry to the 2010-11 Sunday Times survey will enable us to monitor improvements in these areas, building on annual staff surveys carried out since 2006.

These developments in how we approach our work at Monitor have taken place alongside significant change within Monitor's leadership team. In January 2010, William Moyes, who led the organisation in the role of Executive Chair since Monitor was established in 2004, completed his term of office. The Department of Health split the Executive Chair role and Christopher Mellor, Monitor's Deputy Chair, was appointed Acting Chair from February to the end of April 2010. Steve Bundred became the permanent Chair in May 2010. Meanwhile, David Bennett has been Interim Chief Executive since March 2010 and a permanent appointment to this role is expected later in the year. We have

managed these changes carefully, to ensure our work plan remained on track, and have kept staff and stakeholders informed.

Developing our staff

To be a high-performing organisation, it is crucial that we recruit and retain talented staff, and manage them well, so that they are challenged, motivated and inspired to realise their full potential. To support this, Monitor has an ongoing commitment to staff development, through a range of initiatives we offer, supported by personal development plans.

We offer all staff a 'Master Class' training programme. In 2009-10, this covered a range of topics including project management, planning, presentation skills and effective management. These courses were developed in response to staff feedback and support the competency framework as well as Monitor's corporate plan.

Staff can also attend short knowledge sessions led by external health sector experts. In the past year there have been presentations from a range of influential speakers including Cynthia Bower, Chief Executive of the Care Quality Commission, Professor Sir Bruce Keogh, NHS Medical Director and Martin Fletcher, former Chief Executive of the National Patient Safety Agency.

We support all staff with their formal professional development. In December 2009, we ran our annual continuous professional development programme for trained accountancy staff in the compliance and assessment teams. In addition, we have supported staff studying for further education qualifications, where this meets a business need within Monitor.

We are keen to invest in our senior staff, to develop their skills and expertise to lead their teams, and ensure they are aware of best practice and development initiatives within the NHS and wider healthcare sector. A number of senior staff have attended a course for NHS finance directors, which was developed by Monitor, and is run by Cass Business School. Two members of staff attended an international healthcare management programme, run by South Essex Partnership University NHS Foundation Trust in conjunction with Yale University.

Other opportunities for sharing expertise include internal and external secondments. These strengthen links with partner organisations, such as HM Treasury, the Prime Minister's Delivery Unit and within the NHS. Internally, the rotation scheme between the assessment and compliance functions ensures that staff have a broader understanding of our role and the challenges faced by NHS foundation trusts.

Making the most of resources

Alongside our approach to work flexibly to respond to the flux in assessment and compliance work, we have also been developing our knowledge management systems. We have appointed a Knowledge Management Director and developed a strategy, described opposite, to support us in managing the information we hold more effectively.

Monitor remains committed to improving its environmental efficiency. We have developed an Environmental Management Policy to ensure that our operations have a minimum impact on the environment. Initiatives which have been introduced include:

- best practice energy saving schemes on the further floor we acquired in our current office space (for example, movement sensors to switch lights off when an area is unoccupied; building management system for controlling temperature);
- 75% of servers have been 'virtualised' reducing energy consumption in the server room by 30%;
- 'thin-client environment' for users, which are more energy efficient (compared to standard computers), give out less heat and reduce the level of cooling required in the office;
- communication to raise staff awareness about paper usage, resulting in a continued reduction in paper consumption per person year-on-year (since 2005); and
- recycling of paper, toners, mobile phones, used IT equipment, plastics and tin cans.

Harnessing the power of knowledge and information

Accessing information, and using it effectively, is central to Monitor's work. In 2009-10, we developed and started to implement a three-year knowledge management strategy, to streamline processes and help us operate more efficiently. This has meant taking a fresh look at the way we capture and use all sorts of information, including numerical data, documents and correspondence.

"At Monitor, it's what people know, and how they use that information, that makes the difference," explains Neil Stutchbury, Monitor's Knowledge Management Director. "Intellectual capital is one of our critical business assets, so it's vital that it is managed effectively."

In its early years, Monitor was able to rely on comparatively simple filing systems to organise its information. But by 2009, with an increasing number of NHS foundation trusts and a growing staff, the organisation was outgrowing these systems. It recognised the need for more sophisticated means of capturing, storing and accessing information.

"Our strategy focuses on two areas," explains Neil. "The first is to engender cultural change – ensuring that staff understand the importance of knowledge management. The second is to put in place new processes and systems, such as a central information repository for capturing data, both from internal and external sources."

The strategy is expected to have a range of positive outcomes. Having access to more accurate, reliable and timely information, and better predictive data analysis tools, will reduce Monitor's risk of failing to comply with its statutory obligations (a recommendation that came out of the Mid Staffordshire report – see pages 10-13). Significantly, in the current economic climate, a more streamlined system will improve Monitor's efficiency and productivity by 10-15%, and the savings made by optimising the software and support contracts will be used in part to offset the development costs. Monitor should also become more resilient as an organisation, as people's individual knowledge is shared and retained centrally.

"The quality of our decision-making depends on the quality of the information we have," explains Neil. "This programme of work is central to our commitment to being a high-performing organisation, and to our ability to carry out proportionate, risk-based regulation."

Monitor took part in the Office of Government Commerce property benchmarking exercise for the first time in 2009. Property benchmarking is carried out across the government estate with the objective of improving efficiency and involves entering data on a wide range of subjects including environmental performance. The final report gave Monitor a 'good performer' rating in the key areas of carbon produced per full-time employee; water consumption and non-recycled waste per full-time employee. This means that, in these areas, Monitor outperforms the benchmark by at least 10% for an equivalent private sector office.

Going forward, we will look at setting targets to reduce electricity consumption, use of paper and waste sent to landfill.

Monitor's staff profile

	Female	Male	Average age	Staff turnover	Black and ethnic minority representation
2009-10	57%	43%	36 years	12.4%	16%
2008-09	59%	41%	34.4 years	9.1%	12.5%
2007-08	57%	43%	34.4 years	19.4%	12.5%

Monitor's Equality and Diversity Policy states that we will promote equal opportunities to all, regardless of race, gender, disability, age, faith, religion or sexual orientation in the providing of services and employment of staff.

Monitor's Disability Equality Scheme

In line with both best practice and the legal requirement, Monitor put in place a Disability Equality Scheme in December 2006 which consists of a policy and an action plan. A report on progress against the action plan is required annually.

There are five main areas in the action plan:

1. ensuring the scheme is put into practice;

2. making sure clients, staff and visitors have access to buildings and facilities;

3. recruitment and selection duties;

4. training staff; and

5. communication.

Progress has been made in each of these five areas in the three years since the scheme was implemented. This includes:

- publishing information on the intranet;
- delivering training to all staff on equality and diversity;
- the creation of a diversity group;
- carrying out workstation assessments;
- a continuous review of the premises to ensure ease of access;
- operation of a guaranteed interview scheme;
- use of the 'two ticks' disability symbol on all recruitment advertising; and
- providing information in relevant formats to suit individual needs on application.

In our scheme, we committed to gathering information on the effect of our functions on disabled persons by asking our clients, visitors and staff for structured confidential feedback and by carrying out ongoing recruitment monitoring.

We routinely ask job applicants to fill out an equal opportunities monitoring form and, if a qualifying disability is disclosed, the individual will be guaranteed a job interview. We have offered guaranteed interviews on a few occasions in the past three years. We conduct workforce profiling and this information is discussed at senior management level with a view to identifying trends.

We have received positive verbal feedback from disabled visitors about the accessibility of our building and about special arrangements made by our staff to accommodate them. A Disability Discrimination Act report commissioned by Monitor resulted in the purchase of hearing induction loops. We gather feedback on the experience of staff attending diversity training and this is considered when determining future training needs. Monitor tracks the number of documents ordered in alternative formats such as easy-read, large print and audio and this informs future offerings. Monitor is committed to using the information gathered to identify areas of improvement, to develop best practice and to improve the effectiveness of subsequent schemes and action plans.

Monitor remains committed to ensuring equal opportunities for all in its dealings with both internal and external stakeholders.

Performance against 2009-10 business plan objectives

Business objective	Actions	Outcome
Ensure that Monitor has the appropriate organisational structure and sufficient resources to regulate an increasing number of NHS foundation trusts.	Review and develop escalation and delegation procedures to address governance and finance issues.	**Action completed** Developed capacity and capability within Compliance team by separating regulatory strategy and regulatory operations. Appointed a Compliance Director, Portfolio Directors and a Knowledge Management Director.
	Target additional resources to support priority work areas.	**Action completed** Increase in number of policy posts in Strategy team to support FT board development and governance projects.
	Maintain ongoing assessment of team structures, roles and future resourcing requirements and retain resourcing flexibility to deliver Monitor's responsibilities efficiently.	**Action completed** Turnover has been low and foundation trust pipeline erratic. As a result, assessment staff involved in delivering compliance projects at peak times.
Develop staff's skills and capabilities to promote devolved decision making within Monitor.	Develop staff's skills and capabilities through the ongoing implementation of the coaching programme and by encouraging managers to role model behaviours.	**Action completed** Executive coaching for senior managers. All managers received training on coaching skills and techniques.
	Develop the capabilities of senior managers to lead Monitor's external communications.	**Action completed** Senior managers have given presentations at high profile sector events, with support provided by the Communications team. Media training provided for senior managers.
	Implement Monitor's competency framework, focusing at first on strengthening leadership and people management skills.	**Action completed** Competency framework introduced to drive and improve performance, focusing not just on what we do, but how we do it.
	Implement the priorities for improvement from the staff survey in 2008 and monitor progress.	**Action completed** Action plan raising SMT visibility developed and implemented (initiatives include lunches with staff at Monitor, and delivering staff briefings and senior manager briefings). Achieved 24th place in The Sunday Times survey Best places to work in the public sector.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Recruit talented people and provide high quality learning and development programmes to support them to deliver their role to a high standard.	Offer a range of opportunities, including secondments, to support staff to maximise their potential and prepare for promotion opportunities.	**Action completed** Various secondment opportunities provided, including to the NHS, HM Treasury and the Prime Minister's Delivery Unit.
	Promote more opportunities for internal secondments and multifunctional project working to share learning across the organisation.	**Action completed** Secondments from Regulatory Operations to Strategy and Private Office teams. Two rotations between Compliance and Assessment. Multi-functional projects included developing intervention infrastructure and the review and actions following the internal audit report into learnings and implications from Mid Staffordshire NHS Foundation Trust.
	Develop the training programme to support the implementation of the competency framework, in particular the competency on communicating and influencing.	**Action completed** Training provided on competency framework, influencing and persuading, and presentation skills and personal impact.
Support teams to work effectively together.	Consider and implement the priorities to improve knowledge management with a supporting IT infrastructure identified by a review of existing process.	**Action completed** Reviewed requirements, appointed a Knowledge Management Director and developed a strategy to deliver improved systems.
	Build on the programme of internal communications to ensure that staff have access to useful, timely information on political and policy developments.	**Action completed** Continued to use our internal communications channels (our internal staff newsletter, intranet, staff briefings, etc) to alert staff to key external healthcare policy developments. A number of all staff 'knowledge sessions', with presentations from external speakers, took place.
Publish high quality information on the performance of Monitor and of the NHS foundation trust sector.	Ensure that all statutory communication requirements are met.	**Action completed** All statutory documents (consolidated accounts of NHS foundation trusts and Monitor's annual report and accounts) published.

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Publish high quality information on the performance of Monitor and of the NHS foundation trust sector.	Ensure that Monitor's website provides increased access to useful, timely information about Monitor and NHS foundation trusts.	**Action completed** The website was updated on a regular basis and major new sections were added and developed, including a governors' area, a commissioners' area and enhanced information on service-line management, with a range of online toolkits.
	Identify and develop capacity and capability requirements to respond to the expected increase in the number of requests for information Monitor receives on the NHS foundation trust sector.	**Action completed** Role of Business Coordinator created in Monitor's Private Office, to manage all information requests.
Ensure a legally compliant organisation.	Provide legally sound advice to the Board, senior management team and all operational areas and identify and manage all legal risks appropriately.	**Action completed**
	Respond to the Judicial Review of the Private Patient Income cap.	**Action completed**
Work efficiently within Monitor's operating budget	Maintain robust internal financial control procedures to ensure that annual financial balance is achieved.	**Action completed**
	Identify opportunities for Monitor to work more efficiently, effectively and economically.	**Action completed** Mapping our Future project focuses on how teams at Monitor can work together more efficiently and effectively. Standardised systems and processes developed in our Compliance team, with the publication of an internal manual. Knowledge management strategy developed.
	Review the case for impact assessments of significant policy changes.	**Action completed**

Performance against 2009-10 business plan objectives continued

Business objective	Actions	Outcome
Provide efficient and value for money facilities and information technology services to support an expanding organisation.	Prepare, increase and use office capacity to accommodate anticipated increase in staff numbers.	**Action completed** Acquired 3rd floor at 4 Matthew Parker Street. Floor provides an extra 42 workstations giving a total of 150 workstations over the three floors of office space which Monitor uses.
	Ensure that Monitor continues to promote environmental sustainability in its working practices and office environment.	**Action completed** • Environmental Management Policy developed. • Office of Government Commerce property benchmarking exercise undertaken.
	Continue to develop Monitoring Assessment and Reporting System (MARS) to support efficient operation of Monitor's regulatory function.	**Action completed** The MARS system has been migrated to SharePoint and this has resulted in a system that can be better integrated, is simpler to use, far more flexible and can be extended to meet the future needs of the organisation.
	Implement an information technology system to support Monitor's human resources function.	**Action completed** An online HR system has been implemented and is used to store all of our staff records. The structure of the system enables multiple users to access information concurrently and also provides enhanced security of information. The implementation of the new HR system has enabled staff and managers to efficiently record their absences and other records online, without the need for a paper-based system.

Management commentary

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 2010.

The Board

Dr William Moyes
(Executive Chairman to 31 January 2010)

Dr Moyes held the post of Executive Chairman from January 2004. He was reappointed as Monitor's Executive Chairman for a period of two years from 1 February 2008 to 31 January 2010, and left Monitor at the end of this term. For the period of his office he was 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.

Dr Moyes is a trustee of the Nuffield Trust and, in July 2008, he was appointed as a lay member of the newly created Legal Services Board. He was a member of the National Leadership Council for the NHS and a member of the National Quality Board until 31 January 2010.

Mr Christopher Mellor

(Deputy Chairman. Acting Chairman between 1 February and 4 May 2010)

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, and appointed as Monitor's Acting Chairman from 1 February 2010. He was Chair of Monitor's Audit and Risk Committee until November 2009, and a member of the Committee until 31 January 2010. He was Chair of the Remuneration Committee until 31 January 2010. Mr Mellor was also a member of Monitor's Honours Committee and Nominations Committee (and the latter Committee's Chairman from 1 February 2010). He has been Chair of Monitor's Compliance Board Committee since it was established in February 2010.

Mr Mellor was also Non-Executive Chairman of Northern Ireland Water from March 2006 to March 2010 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 Risk Committee, of which she has been the Chairman since November 2009, and is a member of the Remuneration Committee.

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 to 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. Acting Deputy Chairman between 1 February and 4 May 2010)

Mr Thornton joined Monitor on 1 October 2006 for three years and was reappointed from 1 October 2009 for a period of four years. He was appointed Monitor's Acting Deputy Chairman from 1 February 2010 and became a member of the Audit and Risk Committee, a member of the Nominations Committee and Chair of the Remuneration Committee from this date. Mr Thornton is also a member of the Honours Committee and Monitor's Compliance Board Committee, established in February 2010.

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 Department of Health's 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 was appointed for four years. She is a member of Monitor's Honours Committee.

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 and 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 to 31 January 2010)

Working with the Senior Management Team, Bill was 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 were not breached. His role was primarily to ensure that Monitor's business processes were adhered to and that internal management conformed to the policies and standards set by the Board.

Dr David Bennett
(Interim Chief Executive from 1 March 2010)

David is responsible for the executive and operational management of Monitor, proposing and developing Monitor's strategy in consultation with the Chairman and the Board, ensuring that the objectives set out in the *Business Plan* are delivered and that decisions made by the Board are implemented. Following his appointment as Interim Chief Executive he was appointed by the Permanent Secretary as Monitor's Interim Accounting Officer from 3 March 2010.

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.

Stephen Hay was appointed as Accounting Officer for the period 1 February to 3 March 2010.

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 that 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 for overseeing the provision of the back office corporate support services.

Sue Meeson
(Director of Public Affairs and Communications from 11 January 2010)

Sue leads Monitor's communications work, ensuring that it supports the business strategy and acts as an enabler in the achievement of business objectives. Sue advises the Board and Senior Management Team on communications strategy and tactics as well as leading an integrated programme to build understanding of Monitor's role among key stakeholders.

Rebecca Gray was Director of Public Affairs and Communications to 5 November 2009. Deborah Oliver was Interim Director of Public Affairs and Communications from 17 November 2009 to 8 January 2010.

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
In 2009 Monitor conducted the equivalent of an annual staff survey and benchmarked its performance against other public sector organisations as part of The Sunday Times 'Best Places to Work in the Public Sector'. The organisation recorded an excellent response rate and came 24th out of an overall 207 organisations polled and out of 75 organisations listed as 'Best Places to Work in the Public Sector'.

Sickness absence
The average time taken as sick leave by Monitor employees in 2009-10 was 2.8 days (2008-09: 2.9 days).

Environmental impact
Monitor remains committed to improving its environmental efficiency. We have developed an Environmental Management Policy to ensure our operations have a minimum impact on the environment. More details on our initiatives in this area can be found on pages 52-54.

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 2010. During this financial year, outturn against the target to pay all invoices within 30 days of the invoice date was as follows.

	Number	Value
Total number of invoices	2,032	£8.17m
Invoices meeting target	1,817	£6.30m
Percentage meeting target	89%	77%

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 2009-10, 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 2010 are disclosed in note 5 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 2010, the fee for which is £85,775.

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 £15,653,000 (2008-09: £14,523,000). Staff costs represent 57% of gross expenditure at £9,027,000 (2008-09: £8,036,000). Other operating costs include property, consulting and office expenses.

Grant-in-aid of £14,300,000 was received during the year of which £758,000 was applied to the purchase of fixed assets. Net assets at 31 March 2010 were £2,020,000 (31 March 2009: £3,373,000).

A comprehensive review of Monitor's activities, performance against business objectives during the year, and our plans for the future is 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 statutory framework.

Board of Monitor

Board composition

The Board has five members: until 31 January 2010 the Board comprised 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 in public life.

While the members of Monitor's Senior Management Team (SMT) 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 Chairman

Dr William Moyes was Monitor's Executive Chairman to 31 January 2010. During his term of office he was separately appraised on the Chairman and Chief Executive elements of his role. The appraisal was led by Christopher Mellor, as Deputy Chairman and Senior Independent Director, at the time.

On 1 February 2010 Christopher Mellor was appointed Acting Chairman. As Chairman of the Board, his role was to:

1. lead the Board;
2. ensure that it had the information and advice needed to discharge its statutory duties;
3. ensure that the Board adhered to high standards of corporate governance; and
4. be the public face of Monitor, leading its influencing and public activities.

Steve Bundred was appointed as Chairman of Monitor from 4 May 2010.

David Bennett was appointed Interim Chief Executive on 1 March 2010. In his role, 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 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. Stephen Thornton was appointed for a further four years on 1 October 2009.

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

Deputy Chairman and Senior Independent Director

Christopher Mellor was Deputy Chairman to 31 January 2010 and up to this point Senior Independent Director. He was also the Senior Information Reporting Officer.

As Chairman of the Audit and Risk Committee until November 2009 and Remuneration Committee until 31 January 2010, during 2009-10 he has been 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. Jude Goffe chaired the Audit and Risk Committee meetings from November 2009 and these meetings were reported to Monitor's Board.

As Monitor's Senior Independent Director, Christopher Mellor's principal responsibilities were 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 Executive Chairman was effectively conducted; and
3. chair six-monthly meetings of the non-executive directors without the Senior Management Team (including the Executive Chairman) being present.

Stephen Thornton was appointed Acting Deputy Chairman from 1 February to 4 May 2010.

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 2009-10, 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 8 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 (>£500,000);
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 Chief Executive (and formerly 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 provided 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; and
4. facilitating induction programmes for non-executive directors.

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 and senior management team members at Board and Committee meetings during 2009-10 was as follows:

Name	Board Max. 14	Audit and Risk Committee Max. 3	Remuneration Committee Max. 1	Nominations Committee Max. 2	Compliance Board Committee Max. 2	Honours Committee Max. 2
William Moyes	11	2	1	1		2
Christopher Mellor	14	2	1	2	2	2
Jude Goffe	11	3	1		1	
Elaine Murphy	12		1			2
Stephen Thornton	14	1	1	1		1
David Bennett*	1					
Kate Moore	14				1	
Adrian Masters	13	2			2	1
Stephen Hay	14	3	1		2	2
Janet Polson			1	1		
Rebecca Gray*	6					
Deborah Oliver*	3					
Sue Meeson*	4				2	

* The Interim Chief Executive and these senior management team members were in post for part of 2009-10.

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 2009-10 financial year.

Performance evaluation

In 2008 Monitor engaged external consultants to advise and recommend a system to set performance objectives for the Board and SMT, together with a process for ensuring delivery of performance targets. New arrangements resulting from this review were formally applied in 2008-09 to set objectives and review performance. In 2009-10 the Board set objectives for the Executive Chair, splitting assessment of the roles of Chair and Chief Executive. The Board evaluated the Executive Chairman's performance against objectives set for him for 2009-10 and a performance rating was awarded and submitted to the Department of Health.

The Board set objectives for the Interim Chief Executive from the date of his appointment on 1 March 2010.

The Executive Chairman set objectives for SMT against the objectives set for the Board and in relation to the delivery of the business plan for 2009-10 and members of the SMT were appraised by the Acting Chairman.

The Board has not been appraised against objectives for 2009-10.

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 and the *Rules of Procedure* were reviewed in full in 2009-10.

Audit and Risk Committee

Members: Christopher Mellor (Chairman to November 2009, stood down from the Committee between February and May 2010), Jude Goffe (Chairman from November 2009, member of the Committee up to that date), Stephen Thornton (member of the Committee from February to May 2010) 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. 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. She has 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.

At the invitation of the Committee, the Interim Chief Executive (and formerly 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 2009-10 financial year. There have been no occasions on which either the internal auditor or external auditor have requested a private session with the Committee. All non-executive directors have access to the minutes of all the Committee's meetings. A report is presented to the Board following each Audit and Risk Committee meeting.

Key duties of the Committee include:

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;
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; and
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 2009-10 financial year, the internal auditors undertook the following reviews as part of the plan approved by the Audit and Risk Committee:

a. risk management;

b. financial systems;

c. follow-up reviews:

- fraud and corruption;
- stakeholder influencing;
- legal and regulatory;
- procurement; and
- communications.

d. foundation trust development; and

e. Mid Staffordshire NHS Foundation Trust review.

Following an EU compliant procurement process, KPMG was reappointed for a three-year period from 2008-09 to provide internal audit services, with a possibility of up to two one year extensions.

Nominations Committee

Members: to 31 January 2010: William Moyes, Christopher Mellor (Committee Chairman), from 1 February 2010: Christopher Mellor, Stephen Thornton (Committee Chairman). Janet Polson (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.

The Committee met twice in 2009-10. William Moyes and Christopher Mellor met in May 2009 in relation to Stephen Thornton's end of term. Christopher Mellor and Stephen Thornton met in March 2010 in relation to Elaine Murphy's end of term.

Remuneration Committee

Members: to 31 January 2010: Christopher Mellor (Committee Chairman) and Jude Goffe. From 1 February 2010: Stephen Thornton (Committee Chairman) and Jude Goffe.

Details of the Remuneration Committee and its policies, together with the directors' remuneration and emoluments are set out on pages 76-79.

Compliance Board Committee

Members: Two non-executive Board members, including the Chair (in 2009-10 Christopher Mellor and Stephen Thornton) and Stephen Hay (Chief Operating Officer), Adrian Masters (Director of Strategy), Kate Moore (Director of Legal Services), Sue Meeson (Director of Public Affairs and Communications), Merav Dover (Compliance Director), and Richard Guest (Mergers and Acquisitions and Restructuring Director).

The Committee was established in February 2010 to report to Monitor's Board following consideration of individual cases of potential significant breaches of an NHS foundation trust's Terms of Authorisation and assessment of the risk of significant transactions involving NHS foundation trusts.

Honours Committee

Members: Monitor's Chairman and two non-executive directors (in 2010 membership comprised Christopher Mellor, Stephen Thornton and Elaine Murphy). The Committee meets twice a year to consider nominations made by foundation trusts for Honours to be conferred in the Queen's New Year and Birthday lists.

Attendance at Board Committee meetings is shown on page 70.

Executive committees

Members of the Senior Management Team met twice a month from April 2009 to March 2010 as a Management Committee and a Strategy Committee (with the exception of January 2010 when the Management Committee did not meet and with one additional meeting of the Strategy Committee in February 2010). The Compliance Committee with Senior Management Team membership also met on a monthly basis, to consider operational compliance issues and to refer cases of potential significant breach and significant transactions to the Compliance Board Committee.

Executive Committee meetings and attendance

The attendance of Senior Management Team members at executive committee meetings during 2009-10 is as follows:

Name	Management Committee Max. 11	Strategy Committee Max. 13	Compliance Committee Max. 13
William Moyes	n/a	8	10
David Bennett*	n/a	1	1
Stephen Hay	11	11	9
Kate Moore	10	11	10
Adrian Masters	10	12	11
Rebecca Gray*	8	7	5
Deborah Oliver*	1	3	3
Sue Meeson*	2	4	3
Janet Polson	11	n/a	n/a

* The Interim Chief Executive and these senior management team members were in post for part of 2009-10.

SMT attendance at Monitor Board and board committee meetings is shown on page 70.

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.

During 2009-10 William Moyes was a member of the advisory group to the Vice Chancellor of a university. He was 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 was also an unpaid Trustee of the Nuffield Trust. These positions were declared by the Executive Chairman as part of his entry in Monitor's Register of Interests.

With effect from 1 May 2009 Stephen Hay was appointed non-executive director and Chair of the Audit and Risk Committee at the Department for Communities and Local Government, for which the remuneration is £10,000 per annum.

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

Relationships 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 Chairman, Chief Executive (formerly Executive Chairman), Director of Strategy and Chief Operating Officer.

During 2009-10, 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 Care Quality 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 2009-10 included:

- Norman Lamb – Liberal Democrat Shadow Secretary of State for Health and MP for North Norfolk;
- Members of the PCT Network Board;
- Mike Rawlins (Chair) and Andrew Dillon (Chief Executive) of the National Institute for Health and Clinical Excellence;
- Martin Fletcher, previous Chief Executive of the National Patient Safety Agency, and colleagues; and
- FT Chairs: Vernon Hull, Medway NHS Foundation Trust, Hattie Llewelyn-Davies, Hertfordshire Partnership NHS Foundation Trust, Mike Aaronson, Frimley Park Hospital NHS Foundation Trust, and Mary St Aubyn, North Essex Partnership NHS Foundation Trust.

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, information on NHS foundation trust performance and information on our corporate practices.

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

NHS Foundation Trust Code of Governance

The *NHS Foundation Trust Code of Governance* was first published in 2006. Following reviews of its application in 2008 and 2009, and also taking account of more recent developments in governance practices specific to NHS foundation trusts, we published a revised code in March 2010. 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 2009 to 31 March 2010, 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 agreed separate objectives for the Chairman and Chief Executive elements of his role and assessed these accordingly. From 1 February 2010 Monitor has clearly established a division of responsibilities between the Chairman and Chief Executive agreed by the Board, making separate appointments to these posts.
C.2.1	*All other Executive Directors should be appointed by a Committee of the Chief Executive, the Chairman and non-executive directors.* 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 and Risk Committee comprises two independent non-executive directors, and one independent member.

Remuneration report

Remuneration policy

The remuneration of Monitor employees is agreed annually by the Remuneration Committee. In previous years, the Committee made recommendations to the Secretary of State for Health on the remuneration arrangements of the Executive Chairman. With the replacement of the Executive Chairman by a separate Chairman and Chief Executive, the Chairman's salary is determined by the Secretary of State for Health, while the Chief Executive's salary will be managed by the Remuneration Committee as is the case for all other Monitor employees. The membership of this committee comprises the Deputy Chairman, a non-executive director 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 Team covered by this report holds appointments which are open-ended.

William Moyes, who was reappointed as Executive Chairman on a two-year contract commencing on 1 February 2008, retired from Monitor on 31 January 2010. With effect from 1 February 2010 Christopher Mellor was appointed by the Secretary of State for Health, on a temporary basis, as the non-executive Acting Chairman of Monitor. With effect from 1 March 2010, David Bennett was appointed as Interim Chief Executive under a fixed term contract which is due to end on 31 August 2010.

Notice periods and termination costs

The required notice periods for the Senior Management Team are given in the table opposite. Under the terms of their contract, after one continuous year of service, members of the Senior Management Team are eligible for the same severance payment as any other Monitor employee, which is determined by the Civil Service severance compensation scheme.

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 2009-10 performance pay increase ranged from 0% to 4.5%.

Senior Management Team

	Notice period
David Bennett Interim Chief Executive	1 month
Stephen Hay Chief Operating Officer	6 months
Adrian Masters Director of Strategy	6 months
Kate Moore Director of Legal Services	3 months
Sue Meeson Director of Public Affairs and Communications	3 months
Janet Polson Director of Human Resources and Corporate Services	3 months

	2009-10 Salary £'000	2008-09 Salary £'000
William Moyes Executive Chairman (retired 31 January 2010)	195-200 *(230-235 full year equivalent)*	235-240
David Bennett Interim Chief Executive (appointed with effect from 1 March 2010)	15-20* *(280-285 full year, full time equivalent)*	n/a
Stephen Hay Chief Operating Officer	180-185	175-180
Adrian Masters Director of Strategy	140-145	135-140
Kate Moore Director of Legal Services	120-125	120-125
Rebecca Gray Director of Public Affairs and Communications (resigned with effect from 5 November 2009)	40-45 *(90-95 full year, full time equivalent)*	70-75 *(90-95 full time equivalent)*
Sue Meeson Director of Public Affairs and Communications (appointed with effect from 11 January 2010)	20-25 *(90-95 full year equivalent)*	n/a
Janet Polson Director of HR and Corporate Services	85-90	85-90

From 17 November 2009 to 29 January 2010, Deborah Oliver was employed as Interim Director of Public Affairs and Communications. She was employed on a contract basis through an agency and the total cost of the contract was £39,548.

* The Interim Chief Executive's remuneration is non-pensionable.

Chairman and other non-executive directors

	2009-10 Remuneration £'000	2008-09 Remuneration £'000
Christopher Mellor Acting Chairman (appointed with effect from 1 February 2010)	5-10* *(55-60 full year equivalent)*	n/a
Christopher Mellor Non-executive director	15-20	15-20
Jude Goffe Non-executive director	20-25	25-30
Elaine Murphy Non-executive director	15-20	15-20
Stephen Thornton Non-executive director	20-25	15-20

* As Acting Chairman, Christopher Mellor was paid a salary. All other non-executive director remuneration is in the form of fees for attendance at meetings.

The Acting Chairman's salary and other non-executive director remuneration are non-pensionable and none of the non-executive directors received benefits-in-kind.

Pension benefits	Accrued pension at age 60 as at 31/03/10 £'000	Real increase in pension	CETV* at 31/03/09 £'000	CETV* at 31/03/10 £'000	Real increase in CETV* £'000
William Moyes Executive Chairman (retired 31 January 2010)	70-75	0-2.5	1,373	1,510	43
Stephen Hay Chief Operating Officer	15-20	2.5-5	163	222	44
Adrian Masters Director of Strategy	10-15	2.5-5	145	190	31
Kate Moore Director of Legal Services	10-15	2.5-5	118	160	31
Rebecca Gray Director of Public Affairs and Communications (resigned with effect from 5 November 2009)	0-5	0-2.5	20	35	11
Sue Meeson Director of Public Affairs and Communications (appointed with effect from 11 January 2010)	0-5	0-2.5	0	6	5
Janet Polson Director of HR and Corporate Services	30-35	0-2.5	502	566	29

* Cash equivalent transfer value

None of the Senior Management Team are members of a scheme which automatically pays a lump sum on retirement.

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 Nuvos, Premium and Classic Plus. 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 their 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 on 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. The CETV is the amount paid by one pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when a pension scheme member leaves and chooses to transfer the benefits accrued from 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 David Bennett
Interim Chief Executive
7 July 2010

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.

Until 31 January 2010, the Accounting Officer for the Department of Health appointed the Executive Chairman as the Accounting Officer for Monitor. From 1 February 2010, Monitor's Chief Operating Officer was designated as Accounting Officer and from 3 March 2010, Monitor's Interim Chief Executive was appointed by the Accounting Officer for the Department of Health as Monitor's Accounting Officer. 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

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 2009-12. 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 risks efficiently, effectively and economically.

The system of internal control has been in place in Monitor for the year ended 31 March 2010 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

Risk and control framework

Corporate governance and risk management arrangements in Monitor are summarised in the corporate governance disclosure on pages 67-75 of this report and set out in full in Monitor's *Rules of Procedure*, which was published on Monitor's website in November 2006. The Board approved revision of the *Rules of Procedure* on 29 March 2010.

With regards to information governance, Monitor has continued to review and when appropriate enhance its risk based approach to ensuring its information systems remain both secure and highly available. To this end Monitor's IT and IS risk assessments have been brought into line with the organisation's corporate risk assessment model. Monitor has also implemented technologies such as replicated storage area networks and server virtualisation, to reduce the risk of system and data loss. This in turn reduces costs, space usage and power consumption, improving Monitor's carbon footprint.

Capacity to handle risk

Monitor's Risk Management Framework describes an organisation-wide approach to risk management supported by effective and efficient systems and processes. The framework clearly describes Monitor's approach to risk management and the roles and responsibilities of Monitor's Board, management and all staff. The framework was reviewed and revised in 2009-10, and scrutinised by the Audit and Risk Committee, prior to being approved by Monitor's Board in March 2010.

Monitor's Board has overall responsibility for ensuring delivery of Monitor's strategies and goals as outlined in the annual *Business Plan*. When setting these strategies and goals, the Board considers Monitor's specific statutory functions as outlined in legislation and Board members' wider understanding of the healthcare system (the latter being informed by an annual Board away day and an annual Board risk workshop).

When the strategies and goals have been established, detailed plans are drawn-up for each strategy area with input from all staff. Risks against achievement of goals and strategies are reported to the Board on a quarterly basis via the Corporate Risk Register. Monitor's Internal Audit strategy categorises Monitor's business into three systems (operational systems, support systems and the governance framework). Internal Audit considers the risks to Monitor in terms of these systems and this directs Internal Audit's priorities which are reflected within the Annual Internal Audit Plan.

Monitor's Audit and Risk Committee gives consideration to the corporate risk register on a quarterly basis and reports its conclusions directly to the Monitor Board. Internal Audit makes its own regular reports to the Audit and Risk Committee based on its own work programme. The Board discusses the most significant risks and the actions identified to mitigate the likelihood and impact of those risks. On an annual basis, the Audit and Risk Committee evaluates the effectiveness of the risk management framework and approves the *Annual Internal Audit Plan* for the following year.

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, was 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. Monitor's management team continues to ensure that appropriate and relevant controls are embedded in all areas of Monitor's work. A jointly commissioned review of emergency care at Mid Staffordshire NHS Foundation Trust and an internal audit review of the trust were carried out during 2009-10 (please see pages 10-13 for further information).

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. In 2009-10 Monitor restructured its Regulatory Operations directorate to address 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 Audit and Risk Committee and Board meetings.

The Audit and Risk 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 2009-10 review of the effectiveness of the system of internal control has been provided to the Accounting Officer by the Audit and Risk 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.

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 2009-10.

As Monitor's Accounting Officer, I have gained assurance over the adequacy of Monitor's internal control environment during the period before my appointment from:

- a letter, dated 31 January 2010, sent to Stephen Hay by William Moyes in which he gave his assurance to the incoming Accounting Officer that he had discharged his responsibilities as Accounting Officer of Monitor, as assigned to him by the Accounting Officer of the Department of Health and set out in *Managing Public Money*, during the period 1 April 2009 to 31 January 2010;
- the fact that there were no changes to the Senior Management Team during the transitional period between William Moyes' retirement and my appointment; and
- individual assurances given to me by each member of the Senior Management Team as to the adequacy of the internal control environment within their own directorate during the transitional period.

Dr David Bennett
Accounting Officer
Interim Chief Executive
7 July 2010

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 2010 under the National Health Service Act 2006. These comprise the Net Expenditure account, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Reserves 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

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to Monitor's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by Monitor; and the overall presentation of the financial statements.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

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.

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of Monitor's affairs as at 31 March 2010 and of its net expenditure, changes in reserves and cash flows for the year then ended; and
- the financial statements have been properly prepared in accordance with the National Health Service Act 2006 and Secretary of State directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with Secretary of State directions issued under the National Health Service Act 2006; and
- the information given in the Management Report included within the Annual Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

8 July 2010

Accounts and notes

Net expenditure account

for the year ended 31 March 2010

	Note	Year ended 31/3/10 £000's	Year ended 31/3/10 £000's	Year ended 31/3/09 £000's	Year ended 31/3/09 £000's
Expenditure					
Staff costs	4	(9,027)		(8,036)	
Amortisation/depreciation	5	(407)		(459)	
Other operating expenditure	5	(6,492)		(6,151)	
Total expenditure			**(15,926)**		**(14,646)**
Income					
Miscellaneous income	6		273		121
Net expenditure on ordinary activities before interest			**(15,653)**		**(14,525)**
Interest receivable			0		2
Notional cost of capital			50		35
Net expenditure on ordinary activities			**(15,603)**		**(14,488)**
Reversal of notional cost of capital			(50)		(35)
Net expenditure for the financial year			**(15,653)**		**(14,523)**

All operations are continuing.

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

The notes on pages 91-100 form part of these accounts.

Statement of financial position
as at 31 March 2010

	Note	31/3/10 £000's	31/3/10 £000's	31/3/09 £000's	31/3/09 £000's	31/3/08 £000's	31/3/08 £000's
Non-current assets							
Intangible assets	7a		385		377		395
Property, plant and equipment	7b		962		619		665
Total non-current assets			**1,347**		**996**		**1,060**
Current assets							
Trade and other receivables	8	345		541		337	
Cash and cash equivalents	9	3,751		4,654		3,191	
Total current assets			**4,096**		**5,195**		**3,528**
Total assets			**5,443**		**6,191**		**4,588**
Current liabilities							
Trade and other payables	10	(2,924)		(2,148)		(1,840)	
Total current liabilities			**(2,924)**		**(2,148)**		**(1,840)**
Non-current assets plus net current assets			**2,519**		**4,043**		**2,748**
Non-current liabilities							
Financial liabilities	10	(190)		(249)		(308)	
Provisions for liabilities and charges	11	(309)		(421)		(218)	
Total non-current liabilities			**(499)**		**(670)**		**(526)**
Assets less liabilities			**2,020**		**3,373**		**2,222**
General reserve			**2,020**		**3,373**		**2,222**

The notes on pages 91-100 form part of these accounts.

Dr David Bennett
Accounting Officer
Interim Chief Executive
7 July 2010

Statement of cash flows
for the year ended 31 March 2010

	Note	Year ended 31/3/10 £000's	Year ended 31/3/09 £000's
Cash flows from operating activities			
Net expenditure on ordinary activities before interest		(15,653)	(14,525)
Adjustments for non-cash items			
(Decrease)/increase in provisions	11	(112)	203
Depreciation charge	5	188	224
Amortisation charge	5	219	235
Release of long term rent liability	10	(59)	(59)
Adjustments for movements on working capital			
Decrease/(increase) in trade and other receivables falling due within one year		196	(204)
Increase in trade and other payables falling due within one year		702	180
Net cash outflow from operating activities		**(14,519)**	**(13,946)**
Cash flows from investing activities			
Interest received		0	2
Capital expenditure			
Payments to acquire intangible assets		(236)	(176)
Payments to acquire property, plant and equipment		(448)	(91)
Cash flows from financing activities			
Grant-in-aid received		14,300	15,674
Net (decrease)/increase in cash and cash equivalents		**(903)**	**1,463**
Cash and cash equivalents at the beginning of the period	9	4,654	3,191
Cash and cash equivalents at the end of the period	9	3,751	4,654

The notes on pages 91-100 form part of these accounts.

Statement of changes in reserves
for the year ended 31 March 2010

	General reserve 2009/10 £000's	General reserve 2008/09 £000's
Balance at 1 April	**3,373**	**2,222**
Net expenditure	(15,653)	(14,523)
Grant-in-aid received towards revenue expenditure	13,542	15,279
Grant-in-aid received towards purchase of fixed assets	758	395
Balance at 31 March	**2,020**	**3,373**

1. Accounting policies

The annual report and accounts have been prepared in accordance with the *Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the *FReM* apply International Financial Reporting Standards as adapted or interpreted for the public sector context. Where the *FReM* permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of Monitor for the purpose of giving a true and fair view has been selected. The particular policies adopted by Monitor are described below. They have been applied consistently in dealing with items that are considered material in relation to the financial statements.

Accounting convention

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

Non-current assets

The *FReM* 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.

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.

Property, plant and equipment comprise IT hardware, furniture, fixtures, 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 non-current assets have been funded by Government grant-in-aid.

Amortisation and depreciation

Amortisation and depreciation is provided from the month following purchase on all intangible assets and property, plant and equipment, respectively, 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 – 3 years

Furniture, fixtures and office equipment – 5 years

Leasehold improvements – over life of lease

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 on the face of the net expenditure account and under the accruals convention.

Operating leases

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

Financial instruments

As required by the *FReM*, Monitor has accounted for financial instruments in accordance with IFRS 7.

Value added tax
Monitor is not registered for VAT so all expenditure in these financial statements includes VAT incurred.

Cost of capital charge
A charge, reflecting the cost of capital utilised by Monitor, is included in the expenditure account. The charge is calculated at the rate set by HM Treasury (currently 3.5%) on the average carrying amount of all assets less liabilities, except for cash balances with the Office of the Paymaster General, where the charge is nil.

For the year ended 31 March 2010 the average capital employed was negative so, in accordance with the *FReM*, the notional cost of capital has been recorded as a credit in the net expenditure account.

Pensions
Monitor participates in the Principal Civil Service Pension 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 13 to the Accounts.

2. Impact of adopting IFRS

The only impact of adopting IFRS on Monitor's accounts is in the classification of non-current assets. Under UK generally accepted accounting principles (GAAP), an asset can only be classified as intangible if it has an open market value. Therefore, under UK GAAP, the development costs relating to the IT system used by Monitor's regulatory team were capitalised along with the hardware costs within the IT equipment account. Under IFRS, internally generated software can be treated as an intangible asset. As a result £165,000, which represents the net book value of the IT system at 31 March 2009, has been reclassified from IT equipment, within property, plant and equipment, to information technology, within intangible assets.

3. Analysis of net expenditure by segment

As the independent regulator of NHS foundation trusts, Monitor's statutory duty is to authorise and monitor NHS foundation trusts. Monitor does not account separately for these two activities but management information is analysed by function or directorate. As all the directorates are either directly involved in or exist to support Monitor's statutory activities, Monitor effectively has only one reportable segment, so no analysis by segment is provided here.

4. Staff costs

a) Staff costs comprise the following

	Year ended 31/03/10 £000's	Year ended 31/03/09 £000's
Salaries and wages	6,346	5,761
Social security costs	627	572
Employer's pension costs	1,449	1,373
Total cost of staff employed	**8,422**	**7,706**
Agency, seconded, temporary and interim	605	330
Total cost of staff	**9,027**	**8,036**

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

As at 31 March 2010, there were 100 full time employees (31 March 2009: 94), 93 of whom are members of the Principal Civil Service Pension Scheme, five of whom are members of the Partnership Civil Service Pension Scheme, and two of whom are not members of a pension scheme.

Monitor engages staff on various agency, secondment, temporary and interim arrangements for variable time periods. As at 31 March 2010 there were seven staff working at Monitor on this basis (31 March 2009: two).

The average number of whole-time equivalent employees, including the Chairman and Chief Executive, during the year ended 31 March 2010 was 96 (year ended 31 March 2009: 88). The average number of whole-time equivalent agency, secondment, temporary and interim staff was six (year ended 31 March 2009: five).

5. Other operating expenditure

	Year ended 31/03/10 £000's	Year ended 31/03/09 £000's
Property expenses	918	701
Office expenses	1,832	1,506
Consulting services	1,939	1,901
Audit fee for Monitor	24	27
Audit fee for consolidated accounts	86	52
Other professional fees	1,050	972
Depreciation	188	224
Amortisation	219	235
Dilapidations	72	119
Travel and subsistence	164	262
Communication expenses	284	425
General expenses	123	186
Total other operating expenditure	**6,899**	**6,610**

6. Miscellaneous income

	Year ended 31/03/10 £000's	Year ended 31/03/09 £000's
Income from secondments	152	121
Rental income	52	0
Other miscellaneous income	69	0
	273	**121**

During the year Monitor acquired the lease of the third floor of 4 Matthew Parker Street and has subsequently sub-let part of this space back to the original tenant. As a result, Monitor receives rental income. Monitor recharges costs incurred to its tenant including service charge and insurance, and this has been recorded as other miscellaneous income. Also included on this line is a payment of £40,048 that Monitor received from its tenant as a contribution to works carried out to improve the new office space.

7. Non-current assets

a) Intangible assets

	Software licences £000's	Information technology £000's	Total £000's
Cost or valuation			
As at 1 April 2009	755	423	1,178
Additions	186	41	227
At 31 March 2010	**941**	**464**	**1,405**
Amortisation			
As at 1 April 2009	542	259	801
Charge for year	78	141	219
As at 31 March 2010	**620**	**400**	**1,020**
Net book value at 31 March 2009	213	164	377
Net book value at 31 March 2010	**321**	**64**	**385**

Prior year

	Software licences £000's	Information technology £000's	Total £000's
Cost or valuation			
As at 1 April 2008	554	423	977
Additions	218	0	218
Disposals	(17)	0	(17)
At 31 March 2009	**755**	**423**	**1,178**
Amortisation			
As at 1 April 2008	464	118	582
Charge for year	95	141	236
Reverse disposals	(17)	0	(17)
As at 31 March 2009	**542**	**259**	**801**
Net book value at 31 March 2008	90	305	395
Net book value at 31 March 2009	**213**	**164**	**377**

7. Non-current assets continued

b) Property, plant and equipment

	IT equipment £000's	Furniture, fixtures and office equipment £000's	Leasehold improvements £000's	Total £000's
Cost or valuation				
As at 1 April 2009	507	408	670	1,585
Additions	172	122	237	531
Disposals	(26)	(12)	0	(38)
At 31 March 2010	**653**	**518**	**907**	**2,078**
Depreciation				
As at 1 April 2009	335	317	314	966
Charge for year	73	46	69	188
Reverse Disposals	(26)	(12)	0	(38)
At 31 March 2010	**382**	**351**	**383**	**1,116**
Net book value at 31 March 2009	172	91	356	619
Net book value at 31 March 2010	**271**	**167**	**524**	**962**

Prior year

	IT equipment £000's	Furniture, fixtures and office equipment £000's	Leasehold improvements £000's	Total £000's
Cost or valuation				
As at 1 April 2008	343	395	670	1,408
Additions	164	13		177
At 31 March 2009	**507**	**408**	**670**	**1,585**
Depreciation				
As at 1 April 2008	262	236	245	743
Charge for year	73	81	69	223
At 31 March 2009	**335**	**317**	**314**	**966**
Net book value at 31 March 2008	81	159	425	665
Net book value at 31 March 2009	**172**	**91**	**356**	**619**

8. Trade receivables and other current assets – amounts falling due within one year

	31/3/10 £000's	31/3/09 £000's	31/03/08 £000's
Prepayments	299	338	320
Other receivables	46	203	17
	345	**541**	**337**

8a) Trade receivables and other current assets – intra-Government balances

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Balances with central Government bodies	14	167	0
Balances with local Government bodies	0	137	131
Balances with NHS bodies	0	14	0
	14	318	131
Balances with bodies external to Government	331	223	206
	345	**541**	**337**

9. Cash and cash equivalents

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Account held with Paymaster General	3,673	4,577	3,034
Account held with HSBC	77	76	155
Petty cash	1	1	2
	3,751	**4,654**	**3,191**

10. Trade payables and other liabilities

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Amounts falling due within one year:			
Trade payables	643	333	321
Tax and national insurance contributions	213	196	167
Pensions payable	139	141	116
Liability relating to rent-free period	59	59	59
Non-current asset payables	212	138	10
Accruals and deferred Income	1,658	1,281	1,167
	2,924	**2,148**	**1,840**

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Amounts falling due after more than one year:			
Liability relating to rent-free period	190	249	308

10a) Trade payables and other current liabilities – intra-Government balances

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Balances with central Government bodies	352	337	283
Balances with bodies external to Government	2,572	1,811	1,557
	2,924	**2,148**	**1,840**

11. Provisions for liabilities and charges

	Litigation £000's	Dilapidation £000's	Total £000's
Provision as at 1 April 2009	184	237	421
Increase in provision	0	72	72
Costs incurred during the year and charged against the provision	(54)	0	(54)
Unused provision reversed during the period	(130)	0	(130)
Provision as at 31 March 2010	**0**	**309**	**309**

The judicial review hearing on Monitor's interpretation of the private patient income cap took place in November 2009. In accordance with the judgement handed down on 9 December 2009, Monitor was held liable for Unison's costs. These were paid in April 2010.

Monitor holds a provision for dilapidation for its office space at 4 Matthew Parker Street. This has been increased in 2009-10 to reflect the impact of acquiring an extra floor of the building.

Analysis of expected timing of discounted flows:

	Litigation £000's	Dilapidation £000's	Total £000's
Within 1 year	0	0	0
Within 2 to 5 years	0	72	72
After more than 5 years	0	237	237
Provision as at 31 March 2010	**0**	**309**	**309**

Prior year

	Litigation £000's	Dilapidation £000's	Total £000's
Provision as at 1 April 2008	100	118	218
Charge for the year	84	119	203
Provision as at 31 March 2009	**184**	**237**	**421**

Analysis of expected timing of discounted 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
Provision as at 31 March 2009	**184**	**237**	**421**

12. Operating leases

Total minimum lease payments under operating leases are given in the table below, analysed according to the period in which the payments fall due.

	31/3/10 £000's	31/3/09 £000's	31/3/08 £000's
Within 1 year	729	410	417
Within 2 to 5 years	2,879	1,668	1,668
After more than 5 years	85	79	496
	3,693	2,157	2,581

13. 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 2009-10, employer's contributions of £1,428,744 were payable to the PCSPS (2008-09: £1,345,452) at one of four rates in the range 16.9% and 24.3% of pensionable pay (2008-09: 17.1% and 25.5%), based on salary bands. The Scheme Actuary reviews employer contributions every four years following a full scheme valuation.

The contribution rates are set to meet the cost of benefits accruing during 2009-10 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 £18,374 (2008-09: £25,692) 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 £1,410 (2008-09: £1,960), 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 31 March 2010 were £1,410 (31 March 2009: £1,991).

14. Capital commitments

There were no capital commitments at 31 March 2010 that require disclosure.

15. 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 receivables and payables respectively.

In 2009-10 the value of related party transactions with the Department of Health was £3,489. This relates to the provision of payroll services for Monitor.

In addition, Monitor has had a small number of transactions with other Government departments and other central Government bodies.

No board member, member of senior management or other related party has undertaken any material transactions with Monitor during the year.

16. Financial instruments

IFRS 7, Financial Instruments Disclosure, requires the disclosure of the role that financial instruments have had during the period in creating or changing the risk 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 IFRS 7 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

Throughout the year ended 31 March 2010, Monitor held no interest bearing assets or liabilities and, therefore, was not subject to any interest rate risk.

Credit risk

As can be seen in note 8a, at 31 March 2010, only £331,000 (31 March 2009:£223,000) of Monitor's debtors were with bodies external to Government. Of these, £299,000 were prepayments and £18,000 were season ticket loans, which are recoverable through payroll. Given that intra-government balances are not subject to credit risk, Monitor faced very little credit risk at 31 March 2010.

17. Contingent liabilities

There were no contingent liabilities at 31 March 2010.

18. Events after the reporting date

The authorised date for issue is 8 July 2010.

The Goverment has announced its intention to develop Monitor into an economic regulator that will oversee aspects of access, competition and price-setting in the NHS.

There are no other events after the reporting date which require disclosure.

Monitor, 4 Matthew Parker Street, London SW1H 9NP

Telephone: 020 7340 2400
Email: enquiries@monitor-nhsft.gov.uk
Website: www.monitor-nhsft.gov.uk

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