

## NHS FOUNDATION TRUSTS

The Health and Social Care Act 2003 established NHS Foundation Trusts as Independent Public Benefit Corporations modelled on co-operative and mutual traditions. At the time, the then Secretary of State for Health, the Rt. Hon Alan Milburn, MP said “NHS Foundation Trusts will be at the cutting edge of the Government’s wider reform programme for the public services, with the freedom to improve services for NHS patients without interference from Whitehall. The first generation of NHS Foundation Trusts will be led by the best performers – Trusts with 3 stars. This is not about elitism. It is about starting with the hospitals currently most able to benefit from NHS Foundation Trust status”.

The first NHS Foundation Trusts were authorised by Monitor (whose statutory name is the Independent Regulator for NHS Foundation Trusts) from 1 April 2004. There are currently 31 Foundation Trusts.

Reforming the NHS and introducing NHS Foundation Trusts follows four principles, which the Government has established for public services:

- Establishment of explicit national standards and clear accountability for NHS care – *so that patients know that the care they will get will meet national standards wherever they get treatment, and clinicians and managers know what standards they will be judged against;*
- Greater devolution of power and responsibility from the Department of Health to the clinicians and managers who are responsible for care at the front line – *so that the people who know best what needs to be done can take action without going through a complete bureaucratic process;*
- More flexibility for NHS staff – *so that care is provided in the way that best fits the needs of patients and the skills of individual members of staff rather than being designed around old-fashioned demarcation between the professions;*
- Greater diversity of provision and choice for patients – *so that care can properly be designed around individual needs.*

However, the freedoms given to NHS Foundation Trusts will be underpinned by safeguards that whilst giving organisation independence will protect the public interest. NHS Foundation Trusts will be part of the NHS and operate as part of the total mix of health services that make up the local health economy. The new framework will ensure that an NHS Foundation Trust operates within a system that:

- Upholds the values and principles of the NHS
- Protects high national standards for NHS services
- Ensures that its prime purpose of providing NHS services to NHS patients free at the point of use and with treatment according to need, not ability to pay, is met
- Prevents NHS assets from being sold off, mortgaged, or used for purposes that would be against the public interest

An NHS Foundation Trust will be subject to a legal regime that replaces existing accountability to Whitehall with accountability mechanisms to local people, most notably:

- Its governance arrangements will define its accountability to its local community through a Council of Governors;
- Its licence, issued and monitored by an Independent Regulator, will require it to uphold NHS standards and guarantee that it operates according to NHS values;
- Agreements with the organisations that commission its services will specify the range and volume of services to be provided, focusing on the delivery of outputs and introducing greater transparency;
- Inspection by the Commission for Health Audit and Inspection\*, as well as annual performance assessment, will ensure that services meet health care standards, with reports fed back to the Independent Regulator.

The licence for an NHS Foundation Trust will detail:

- A requirement to focus on delivery of care to NHS patients with a strict cap on the provision of services to private patients;
- The clinical services which it must provide to the local community;
- The application of clinical and service quality standards against which the Commission for Healthcare Audit and Inspection inspects;
- Its duty of partnership with other NHS and social care bodies;
- Its duty to participate in the education and development of healthcare staff in the NHS;
- The circumstances in which it can make changes in the services it provides for NHS patients;
- The financial duties under which it will operate, including a prudential borrowing regime
- Restrictions on the disposal of assets used in the provision of NHS services;
- Requirements to provide statistical and financial information and participation in the NHS strategy for Information Management and Technology

*\*An NHS Foundation Trust will be required to submit reports and information to the Independent Regulator, who will also get reports of inspections carried out by the Commission for Healthcare Audit and Inspection against value for money, clinical and quality standards. The Independent Regulator's duties and powers will be distinct from those of the Commission for Healthcare Audit and Inspection – and any other inspectors – and he or she will act independently in any dealings with an NHS Foundation Trust*

Following the achievement of 3 stars for the year to 31 March 2004 Salisbury Health Care NHS Trust was invited to become a Foundation Trust. A preliminary application outlining the Trust's historical performance was submitted at the end of November 2004. This was approved by the Secretary of State who asked for a full application, described as a preparatory application, to be submitted by 9 December 2005. A prerequisite is that the Trust receives a 3 star rating for the year to 31 March 2005 when the ratings are published on 25 July. Failure to do so will mean automatic disqualification from this round of applications.

The preparatory application requires the Trust to complete a 5 year business plan, known as the Service Development Strategy, refine its Governance arrangements to recognise the role of Members and Governors and the changed accountability process, and to have an appropriate Human Resources Strategy. Additionally the Trust has to publish and consult for 12 weeks on a Draft Constitution, which is currently in course of preparation. Assuming a 3 star rating on 25 July the consultation process will start on 15 August. As well as inviting comment about the Draft Constitution the consultation will outline how anyone living in the Trust's defined catchment area can become a member and how members will be invited to vote for Governors to represent their views. I will explain and elaborate on this process at the time of my presentation.

I hope you will find this briefing note helpful, more detailed information is available and I would particularly refer you to the publication – A Short Guide to NHS Foundation Trusts – to be found in the Policy and Guidance section of the Department of Health web-site and also to the web-site of the Independent Regulator at [www.mintor.nhsft.gov.uk](http://www.mintor.nhsft.gov.uk).

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