Foundation Trust Regulation

Presentation to FT Chairs and NEDs
15 November 2012

Stephen Hay
Managing Director of Provider Regulation
• Challenging times for the sector
• Current and expected performance
• Key elements of provider regulation
• Role of NEDs
Challenging times for the sector
Projected NHS spending

Annual percentage change in real terms NHS expenditure & planned expenditure in England: 1974/75 to 2014/15
Challenges for FTs – But you cannot compromise on safety or quality

- New drugs and technologies
- Maintain and improve quality
- LHEs and demand management
- Care closer to home
- Commissioners and Choice
- Demographics

Patients
Current and expected performance
% of FT sector in significant breach

- 36 FTs have been found in significant breach since 2004
- 11 FTs in the past year
Historical and projected performance (2006 to 2013)

- Total income (£ billions)
- Operating costs (£ billions)
- EBITDA (%)
- Net surplus (% income)
- Projected income
- Projected operating costs

[Bar chart and line graph showing data from 2006-2013]
FT Profit / Loss: Q1 2012 / 2013 – Differential performance

Profit / loss (£m)
Monitor’s work assessing and authorising trusts to continue

Majority of trusts expected to gain FT status by 2014

Monitor will maintain the ‘bar’ for entry standards
Key elements of provider regulation
<table>
<thead>
<tr>
<th>Licence replaces ToA</th>
<th>Licence conditions</th>
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<tbody>
<tr>
<td>from April 2013</td>
<td>Pricing, competition and integrated care - all licensees</td>
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<tr>
<td>focus of Monitor’s oversight</td>
<td>Continuity of Service (CoS) - providers of Commissioner Requested services (CRS)</td>
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<td>providers of NHS health care services</td>
<td>FT register and governance conditions – all FTs</td>
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<td>Monitor has powers to address breaches by licensees</td>
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Ensure continuity of provision of vital services

Assess financial strength of CRS providers – initially FTs
• Monitor financial strength of CRS providers
• Ensure continuity of services

Assess FT governance
• Compliance with governance licence condition
• Risk that governance causes failure to comply with any condition

Oversight of FT governance
## Approach to potential failure

### Causes of failure

- Management / clinical failure
- Underlying viability of individual provider
- Configuration of services across health economy
- Change in demand

### Monitor actions

- Contingency planning team works with local commissioners.
- While drawing up plans, solution may be found that would result in provider avoiding financial failure.
- Provider placed into special administration if solvent restructuring is not possible.
- Risk Pool will provide funding to ensure continuity of service whilst a permanent, sustainable solution is found.
The NED role
Governance requirements for FTs: what Monitor expects

Board leadership
- effective board structures;
- clear lines of responsibility & accountability;
- appropriate levels of challenge
- rigorous & robust business plans & other strategic decision-making processes.

Organisational oversight
- accurate & timely information to the board;
- effective performance management, risk assurance and escalation
- compliance with the licence, national healthcare standards and legal requirements.

Quality governance
- sufficient quality expertise at board level,
- quality considerations are reflected in plans;
- systems to monitor quality of care. Timely & appropriate action to address issues;
- procedures to take account of stakeholders’ views

Capability and Capacity
The FT has systems in place to ensure there is sufficient capacity and capability at all levels in the organisation.
What we find when things go wrong

Planning
- Poor information flows
- Failure to plan appropriately
- Failure to implement action plans
- Poor scrutiny of financial plans

Risk management
- Poor assessment of risk
- Poor risk management systems
- Failure to identify key areas of concern
- Failure to address arising issues

Financial management
- Poor CIPs planning and/or delivery
- Lack of challenge
- Lack of board understanding

Governance
- Insufficient capacity and skills
- Lack of clarity around roles
- Lack of challenge
Key challenges for FT NEDs

- Maintain a strategic focus
- Looking for innovative approaches: new care pathways, working with partners
- Never forget quality and patient safety
- Don’t be afraid to challenge - use your previous experience beneficially
- Question information flows
- Question assurance processes

…….These challenging times requires strong leadership which needs to come from the Board.