

FOUNDATION TRUSTS

Why governors are the power behind the chairs

Governors are being given the authority to fire chairs and non-executives as they become the lynchpins of greater local accountability. Carolyn May explains



NHS foundation trust governors are finding themselves in the spotlight as the Health and Social Care Act 2012 gives them additional duties and powers as part of an increased role in local accountability.

FT councils of governors will have the responsibility:

- for the final decision on any mergers, acquisitions, separations and dissolutions planned by the trust;
- to approve increases of greater than 5 per cent a year to the trust's private income, and

- to "hold the non-executive directors to account" for the trust's performance.

This last point involves questioning directors closely on the trust's financial and quality goals and achievements, and requesting further information or explanations if dissatisfied, as well as representing the views of the members who elected them and of the public.

These new responsibilities will be in addition to governors' existing powers from the NHS Act 2006 to be able to hire and

fire the trust chair and/or non-executive directors and determine their remuneration, appoint the trust's auditor and approve or deny the trust chief executive's appointment.

To date, the governors of just one trust – Lincolnshire Partnership FT – have formally removed their chair, but dissatisfied governors at other trusts have certainly played a part in chairs and non-executives deciding to stand down.

Governors represent local

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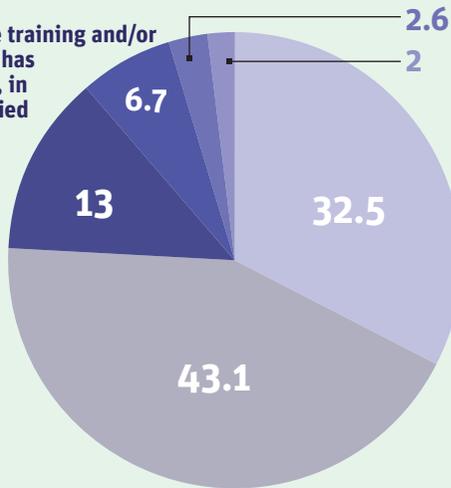
The new duties for governors of foundation trusts are not without their potential legal and governance pitfalls. On hsj.co.uk Andy Chittenden and Jenna Tsai explore how a stewardship standard can support governors in interpreting and discharging these duties appropriately.

Go to www.hsj.co.uk/governor-duties

MOST GOVERNORS SATISFIED WITH TRAINING

Think about all the training and/or briefings the trust has provided you with, in general how satisfied are you with the quality?

- Very satisfied
- Fairly satisfied
- Neither satisfied nor dissatisfied
- Fairly dissatisfied
- Very dissatisfied
- Don't know



SOURCE: MONITOR

community interests in FTs, and are accountable to the members who elect or appoint them, including the public, staff and organisations key to the trust, such as commissioners, local councils, universities, local voluntary groups and charities. Some trusts also have patient, carer or service user governors, who are direct users of the trust's services and form a subset of the public governors.

In the accountability chain, governors are accountable to members and hold NEDs to account, while NEDs are accountable to governors and hold executive directors to account (see below). The FT chair operates a dual role as chair of the board of directors and chair of the council of governors, and acts as the link between the two; a role which can be difficult to balance.

It takes time for an FT to put the model in place successfully

for all concerned. There can be initial difficulty in establishing the purpose and limits of the governor role or sometimes an erroneous expectation by governors that they will become involved in trust management or patient care. However, most trusts and directors are now acknowledging the benefits that governors bring in helping the trust to retain a patient-centred focus and directors to take account of member views in the trust's forward plan.

Who are the FT governors?

There are currently some 4,500 governors and 1.5 million members at 144 FTs. With around a further 100 trusts due to be authorised by April 2016, we might expect more than 7,000 governors to be representing nearly 2 million members by that date.

FT governors are all volunteers, receiving only

expenses for the time they commit to the role. They typically meet as a full council four to five times a year and 86 per cent of governors say they attend every or almost every meeting. Most trusts also have sub-committees to discuss finance, nominations and appointments and other working groups, such as membership or patient experience groups, which could account for a further four to five meetings per year.

Governors themselves may set up other sub-groups, such as governors' forums, and also help with a range of activities such as helping at members' events, administering patient surveys, fundraising, delivering newsletters and canvassing member views.

Public governors Approximately half the governors of FTs are public governors, appointed by public members of the trust. Research shows that 60 per cent of public governors are retired and 15 per cent employed full-time with the remainder working part-time or being self-employed.

There is a vast range of experience within public governors (see graph, top right). Some are, or have been, extremely senior in the public and private sectors and bring significant medical, corporate or commercial experience. Others may simply bring an interest in their local trust or a wish to represent a specific point of view.

Patient, carer and service user governors Around 10 per cent of governors are patients, carers or service users of the trust itself,

people who want to give back first hand experience of the trust to help keep patients at the heart of every decision. Trust boards recognise this as a tremendously helpful asset, especially as many of these governors are giving up their time during what may be a difficult period in their lives.

Staff governors Staff governors, appointed by colleagues, are perceived to play a more difficult role as they must represent the views of the workforce in the strategic approach to the trust's business rather than representing staff grievances, for which there are other channels.

Staff governors can also find it difficult to take time out from their day job, or to represent a view with which their personal manager might disagree.

However, public governors in particular very much value the first-hand experience that staff governors can bring. Appointed governors represent stakeholder organisations key to the trust and can be helpful in drawing relationships between the organisations closer together, although there can also be conflict when discussing topics such as contracts or commercial strategy. Anecdotally, appointed governors are among the most likely to find it difficult to attend meetings and contribute due to other commitments.

Concern about governors' new powers

The proposed increase in governor powers caused concern during the passage of the bill from some FT chairs and CEOs as to whether governors were sufficiently experienced and knowledgeable to be taking such decisions, as well as from a minority of governors themselves who had not anticipated these changes to their role. Some public, patient and service user governors in particular had seen the governor role as representing the views of patients and users of the trust and local people rather than being asked to take decisions on

THE CHAIN OF ACCOUNTABILITY

Each holds the next to account



And each answers to the former



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'Most trusts and directors are now acknowledging the benefits that governors bring'

strategic transactions or scrutinise a financial report.

There remains concern among some trust directors that while the majority of governors act in the best interests of the trust and genuinely have the interests of trust members and the public at heart, there may be a minority of others with a specific purpose in mind. It is not inconceivable that a governor could try to block a significant transaction for personal or even commercial reasons, for example, although ultimately it would be the council as a whole taking these decisions.

However, in the main, the will and enthusiasm from governors for undertaking their role diligently and caringly is tremendous. 64 per cent of governors surveyed between 2010 and 2011 were fully prepared to take on any additional responsibilities awarded to them by the Act, even though, at that point, the extent of these was not fully clear.

Making the model work

Anecdotally FT governors are known as a "critical friend", meaning that while they philosophically support the trust, they are also there to keep a watchful eye on the activities and performance of the directors

to ensure that they are fulfilling the trust's principal purposes and responding to the wishes of the members and of the public.

The chair plays an extremely important role in acting as chair of both the board of directors and of the governors. We observe that where the chair is open with governors and genuinely enthusiastic about the role they play and the positive impact they can have, the relationship is much more likely to be a productive one.

However, it is not only up to the chair. Under the Health Act governors will also soon have a right to summon any of the FT directors to a meeting and director board meetings will need to be held in public. It is undoubtedly helpful if all the directors take the time to get to know the governors and ensure that they feel sufficiently well informed and valued in their role.

The need for training

Training is extremely important, especially for newly appointed governors who are not yet entirely familiar with the role. Initial training is most helpful if it happens as soon as possible after appointment and involves interaction with directors of the trust as well as with other governors. Subsequent training is also important to remind

governors of their role or to provide training on specific topics such as recruitment, legal matters and finance.

From our research, most governors do indeed receive initial and subsequent training and the majority (76 per cent) are very or fairly satisfied with the training they receive. However, there remains a minority who would prefer more consistent and higher quality training (see graph, top left).

To help trusts with the job of training governors, the Department of Health procured suppliers for a national governor training framework, with the contract awarded in July 2012. Monitor's publication *Your Statutory Duties: a reference guide for NHS foundation trust governors*, will be updated during 2012 to reflect the new duties and answer some outstanding questions.

The Foundation Trust Network and the Foundation Trust Governors Association are also working to support governors through various conferences and guides, further information on which can be found on their respective websites.

However, the Act tasks FTs themselves with ensuring that governors have the skills needed for their role, so it will ultimately

be the trusts' own responsibility to ensure governors receive the training they need.

The foundation trust governor will continue to carry considerable weight and directors would be wise to respect this role and ensure they support governors in their duties and the value they bring. Substantial benefits can be derived by the trust where there is a strong and effective relationship between directors and governors, especially in difficult times, when governors can provide significant public support.

However, where governors do not receive the involvement and information they seek, they can feel directors are only paying lip-service to the role or worse, that directors are being deliberately evasive. This is counter-productive and can lead to mistrust and deep divisions, even publicly.

Such a situation is a lost opportunity and moreover a dangerous situation for the chair and non-executive directors – for whom governors can ultimately deliver Alan Sugar's now infamous line. ● Carolyn May is a policy adviser at Monitor.

SECTORS WHERE GOVERNORS GAIN EXPERIENCE

Thinking specifically about your career or working life, which of the following areas have you worked in?

