

FT PIPELINE IN THE WAKE OF THE FRANCIS INQUIRY

HSJ Local Briefing is our new in-depth analysis of the key issues facing the NHS's major health economies

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In brief

Issue NHS Trust Development Authority boss David Flory has 99 potential problems in the shape of each one of the trusts he is responsible for, until they are authorised as foundation trusts or cease to be independent organisations. While some of the non-foundations will get Monitor authorisation relatively easily, others will struggle, with many needing to be merged, taken over or perhaps put into a management franchise or the failure regime.

Context From April 1 the TDA will take on the role previously held by strategic health authorities and the Department of Health, to guide trusts to FT status, which usually involves significant efficiency savings, while ensuring there are no care quality disasters. There will be additional scrutiny in the wake of the Francis report. The previous secretary of state for health had committed the government to getting almost all trusts authorised by Monitor in time for a "drop dead date" of April 2014.

Outcome The 2014 deadline is widely expected to be dropped, after indications from Robert Francis QC and the prime minister that it should be. HSJ has also learned that just over half of the pipeline trusts have a "standalone solution", implying 47 of them will not continue in their present form.

The context for the pipeline

At the start of April the NHS Trust Development Authority is due to unveil its new accountability framework, which sets out how it will manage non-foundation trusts.

In the run-up to this, the authority asked all 99 ambulance, hospital, community and mental health trusts in the foundation trust "pipeline" to resubmit their plans to be authorised by Monitor.

The pipeline has traditionally seen slow progress, with it taking until last year for more than half of trusts to achieve foundation status.

Previously organisations would submit an application to their strategic health authority, which would then pass it to the Department of Health's FT technical committee. The DH would have to sign it off before passing it to Monitor for assessment.

The pipeline includes some trusts with minor problems which can expect to be authorised shortly; others which need support or bailout before becoming FTs; and some

which have no future as standalone organisations.

Former health secretary Andrew Lansley had committed the government to a policy of getting all trusts to foundation status by April 2014, something that now looks highly unlikely.

As late as October 2012, TDA chief executive David Flory told HSJ there had been no change of policy and only "a handful" of trusts would not be across the line by that date.

But in the wake of the Francis inquiry, which found disastrous patient care consequences as a direct result of cuts made by management determined to achieve foundation trust status at Mid Staffordshire, the authority's position is not clear.

Both Robert Francis QC and prime minister David Cameron said the FT policy should be reviewed in the wake of the findings.

What is the TDA's approach after Francis?

The TDA made no substantive response when asked whether it

intended to maintain the April 2014 deadline. However, HSJ understands it will be dropped with a new "aspirational" date agreed for each trust instead, which may be after April 2014.

A problem for the authority is to keep the pressure on trusts to make unpopular and difficult efficiencies once a "drop dead date" has been removed.

The authority has said it will make the achievement of foundation trust status a by-product of improving finances and quality, rather than the focus.

But the fundamentals of the pipeline remain the same, and HSJ understands there are more trusts without an independent future – or "standalone solution" – than previously thought.

Current state of the pipeline

The authority told HSJ only 52 of the 99 pipeline trusts were expected to be authorised in their current form. It has declined to name the trusts, but the figure means there are 47 which are left without an independent future.

Nineteen of these are likely to be trusts which have already declared they will not have an independent future, and often are already pursuing a merger, being acquired or considering management franchise and other solutions. This also includes South London Healthcare Trust, which is due to be dissolved after being placed into the failure regime last year.

The 47 total is significantly higher than previous estimates of how many trusts would not become FTs, which put the number at around 20.

Subtracting the 19 which have already declared, there are believed to be a further 28 that will not be able to continue in their current form, but have not yet acknowledged this.

HSJ spoke to senior figures in the

sector who said the figure of 47 organisations unable to become an FT in their current form appeared to be correct.

Of the 99 trusts in the pipeline, 16 have already been referred by the DH to Monitor for consideration for authorisation. This means they are more likely to be authorised, but not certain. Some, like Kingston and West Sussex Hospitals, are expected to be authorised shortly, with others having their application put back by up to a year.

One outstanding question for the pipeline is how commonly the trust failure regime will be used to break up organisations, as it is in south London. Earlier this year HSJ reported the TDA and foundation trust regulator Monitor were setting aside £300m to pay consultants to run the failure regime at trusts over the next four years.

One figure with experience of the failure regime said the £300m could pay for "around 20" uses of the failure regime if necessary. That would potentially have a major effect on the pipeline, quickly dissolving a significant number.

However, a well placed senior source said the political appetite for use of failure regime legislation had dwindled from last year, when it was thought possible it would be applied at Mid Yorkshire Hospitals Trust or Barking, Havering and Redbridge University Hospitals Trust.

Both trusts have had significant performance, financial and reconfiguration issues and HSJ understands that in Barking the high-performing North East London Foundation Trust, which runs community and mental health services across the same patch, has expressed an interest in being part of the solution.

Consequences for community trusts

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The new figures have implications for the 18 aspirant community foundation trusts, which are thought to be vulnerable to competition and among the most likely to be taken over.

Two, Birmingham and Derbyshire, are with Monitor but another, Cambridgeshire, was last year told by commissioners they did not want to see another foundation trust in their area.

Another, Sussex Community Trust told HSJ it was awaiting the result of a meeting with the TDA it had had on March 20 about whether it had a standalone future or not.

One senior figure in the south of England told HSJ it would make sense to have the trust's services taken on by Sussex Partnership Foundation Trust or Western Sussex Hospitals Trust.

However, a Monitor rule change could make it easier for aspirant community foundation trusts to survive.

Currently a trust must retain a financial risk rating of three out of five or higher, and one of the determinants of this is asset base.

The relative lack of assets compared to larger acute trusts had been a significant barrier to community trusts achieving foundation status.

Monitor is now proposing to change this rule so the only two determinants of the financial risk rating are a liquidity measure and a debt service measure.

However, the assessment also includes an analysis of risk to the trust's future income, and many of the community service contracts inherited by the community trusts under the transforming community services programme in 2010 come up for renewal over the next year.

authorisation of the outstanding 28 trusts will be pursued by the NHS Trust Development Authority and others. However, it is expected there will be some degree of pressure on them to seek FT status, or to decide they have no future as an independent organisation.

HSJ will track the progress of the pipeline and the 28.

Future for the pipeline

It is unclear how rigorously the