

# The NHS: What's Happening

## Educating NHS suppliers on how to navigate the new NHS landscape

Tuesday 4 June 2019 | Norton Folgate, London

## Monitor challenges DH on freedoms

Battle lines are hardening between foundation trusts and the Department of Health over the trusts' future, following a series of leaked letters between the leaders of the NHS and regulator Monitor, reports Sally Gainsbury. The correspondence has exposed a gulf between their positions on New Labour's flagship hospitals.

In an email sent to foundation trust chairs and chief executives on Monday, Monitor executive chairman Bill Moyes told of his discomfort over the "directive" and "instructive" tone of letters from the DH to foundation trusts, which he said were in contravention of legislation.

Foundation trusts are supposed to be independent of Whitehall and strategic health authority control. Mr Moyes complained that NHS circulars sent in the wake of the Maidstone and Tunbridge Wells infection control scandal "could only be interpreted as issuing instructions".

Mr Moyes said he had been moved to share his views with the 80-odd organisations because his own exchange of letters with NHS chief executive David Nicholson had revealed disagreements between them.

He attached to the email his most recent letter to Mr Nicholson, in which he complained missives sent by the DH late last year outlining policy on infection control, deep cleaning and matrons "imply [foundation trusts] are in a line management accountability relationship with the DH". Mr Moyes said this was "damaging".

He also attached a flow chart illustrating the relationship between different parts of the NHS and cited extracts from ministerial statements. He said that instead of issuing targets to foundation trusts, ministers should first direct concerns towards primary care trusts, which should not be commissioning care from "dirty" or "badly managed" hospitals. Monitor should be the DH's first port of call for concerns about foundation trusts, he added.

Monitor's move follows worry that Gordon Brown's government lacks the same commitment to foundation trusts as its predecessor. They see the renewal of Mr Moyes' contract for just two years as further cause for concern.

NHS chiefs have expressed worries about the perceived "centralising" tendencies of Mr Nicholson and his team. Birmingham University professor of health policy and management Chris Ham said: "There are people in the department, of whom David is one, who would like to run the health service as if it were a big company with operational units out there in the field.

"If David Nicholson wins out in this debate, it doesn't resolve the fundamental dilemma in that the man in Whitehall cannot control what happens on the shop floor."

Foundation Trust Network director Sue Slipman said Mr Moyes was right to raise the concern now, particularly as the "tipping point", where 50 per cent of all NHS providers were foundation trusts, was approaching. She urged Monitor to go further, complaining that the regulator risked becoming no more than a "conveyor belt" for DH policy.

The regulator should be standing up to the DH when targets conflicted with the best interests of foundation trusts, she added.

The 18-week waiting target was a case in point, she said, particularly when it operated alongside patient choice. The most popular and specialist hospitals could struggle to meet both policies without major investment and restructuring. But that might not be best in the long term.

Monitor's role and status is further imperilled by the forthcoming regulator, the Care Quality Commission. A DH spokeswoman said: "The new regulator will have the principle role in co-ordinating the activity of all other regulators."

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She declined to respond to a question about the DH's planned role for Monitor beyond 2011.

Despite the DH's and the prime minister's professed support for foundation trusts, Ms Slipman said ministers were in practice "schizophrenic" about the policy.

"Gordon Brown's [January] speech made it clear the model was here to stay, but that doesn't mean ministers don't hanker after giving them orders. But if they treat these organisations like transmission belts, they will kill them."

Health select committee member Howard Stoate (Labour) said the DH was "within its right" to issue targets and instructions on matters as crucial as infection control. Dr Stoate opposed the foundation trust policy but said he believed the government remained committed to it. However, a major problem for the government was that foundations had so far failed to be bastions of local democracy, he said.

"Foundations were supposed to be run through their boards and be accountable to the public through their membership, but we don't see that happening yet," he said. "We want [them] to have as much democratic control as possible and until that happens, it's reasonable for the government to assert control."

Mr Brown has set foundations a target of trebling their membership to three million by 2012. Monitor has said this is possible, but has admitted there is ongoing concern about the quality of boards to hold foundations to account.

David Nicholson said: "The autonomy of foundation trusts and the role of Monitor as their regulator has played a vitally important role in helping to reform our system, and I have been unswerving in my support to ensure that more and more patient care is delivered by foundation trusts. I remain totally committed to this, and believe that foundation trusts driven by world class commissioning will deliver the kind of transformation in services we all aspire to."

"I am also clear every NHS board has a duty on behalf of its patients to learn lessons from what happened at Maidstone and Tunbridge Wells to ensure it never happens again."

## Monitor slates foundation trust boards over performance management

Monitor has outlined its concerns about the failure of foundation trust boards to adequately predict performance against targets.

Independent reviews of 11 trusts required by Monitor found "limited evidence" that boards were using forecasting techniques and information on past performance to predict their compliance with Monitor's requirements.

Monitor instigated the reviews after it found trusts had twice over-estimated their ability to meet the target on MRSA infection rates, which they then missed.

In a briefing, Monitor said: "It was clear from the reviews that there is a lack of understanding of how action plans will deliver the reductions necessary to meet the relevant target."

"In the case of MRSA, there was little evidence of effective plans to address community-acquired infections, or that solutions are being planned in partnership with other providers and commissioners."

Some foundation trusts are using their self-certifications to communicate progress against performance targets to their staff, the briefing reported.

It warned there were lessons for all foundation trusts: "A failure on the part of boards to understand actual and potential performance, and take mitigating actions, may impact in patient care, and be expensive and reputationally damaging."

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### The dispute

Bill Moyes to David Nicholson, 31 October 2007

"I am concerned that your letter may have been interpreted as a signal that the independence of foundation trusts, which is a key to their success, is in danger of being eroded"

David Nicholson to Bill Moyes, 12 December 2007

"I must admit that I do not fully grasp your point about instructions to foundation trusts. As NHS chief executive, I have an explicit responsibility to ensure that all NHS organisations have a clear and consistent view on how we expect them to respond to challenges. That applies to foundation trusts as much as any other NHS organisation"

Bill Moyes to David Nicholson, 31 January 2008

"It is damaging for the department to interact with foundation trusts in ways that imply they are in a line management accountability relationship with the department"

Bill Moyes to FT chief executives and chairs, 18 February 2008

"If problems arise, it will be no excuse to say you were simply operating within a framework defined by the Department of Health or the strategic health authority"

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