

Swindon Trades Union Council: Foundation Status Briefing

Foundation Status – “behaving like any other business”

Swindon & Marlborough Trust is holding a ‘consultation’ (from July 9th to September 29th) on the proposal to become a Foundation Trust. A genuine consultation would involve a discussion on the merits or drawbacks of Foundation Trust Status. However, the Trust makes it plain in their consultation document that such a discussion is not on their agenda.

“The consultation is not a vote on whether we should become an NHS Foundation Trust. It is to seek views on our plans to become one.”

In other words the Trust has decided to become a FT and they are not prepared to have a discussion on whether or not it is a good idea to do so. The Reply Form that they have produced does not include a question on whether or not you support the move to Foundation Status.

This renders the ‘consultation’ a bogus one. Surely staff and local people should have the opportunity to discuss the implications and potential consequences of FT status otherwise we are restricted to discussing *the detail of becoming a Foundation Trust*. There is no democracy in this.

Swindon TUC is therefore calling for a genuine discussion in which staff and residents have the opportunity to say whether they are in favour of, or opposed to, the move to a FT.

What are Foundation Trusts?

FT’s are said to be “independent, not-for-profit public benefit corporations”. In fact, when they can keep their surpluses, they are likely to organise their ‘business’ in such a way as to maximise them. The consultation document is full of business language. It says that FTS provides “business and commercial opportunities” for them.

FT’s are part of the government’s policy to introduce a competitive market in which self-standing Trusts compete with each other and private companies for patients. In fact the ‘market’ in ‘elective’ surgery has been rigged in favour of the private companies. They have been guaranteed payment for the work they are contracted to do, *even if they don’t carry out the contracted amount*. In contrast NHS Trusts have been paid insufficient money if they do “too much” work.

The government has declared that it wants all Trusts to be Foundation ones. It envisaged them all becoming such by 2008. But only 70 have done so thus far.

Both the government and the Trust try to placate staff and users by saying that health provision will continue to be free at the point of delivery. However, by abandoning collaboration between different components of the NHS and making them compete with each other for patients, the government is progressively destroying the NHS *as a national service*. Work has been taken away from Trusts and handed over to private companies. The decision that all Trusts must break even treats them like profit-making businesses and has led to financial crises. Trusts were condemned by Patricia Hewitt for “doing too much work”. What were they supposed to do, turn sick people away? The amount of work that any Trust is liable to have is unpredictable given the fact that individuals do not fall sick by rota.

Introducing market anarchy makes planning impossible and can only lead to ‘winners’ and ‘losers’. And the ‘winners’ will see their ‘business’ as driving up their level of surpluses.

Amongst the ‘strategic objectives’ of the Trust you can read:

“Increase the number of patients choosing our services from Wiltshire, Oxfordshire, Berkshire and Gloucestershire.”

In other words, *they want to take patients and money away from other trusts*.

“Profit Centres”

It is clear that the ethos of the NHS has been abandoned and Trusts are being turned into money making businesses. This is more so the case with Foundation Trusts. In March of this year the Times reported that

Monitor (the organisation which regulates FT's) had told them "to identify the services and treatments on which they turn a profit. In the last resort, that could lead to some ceasing to provide services that do not make money. The moves mark a further injection of market disciplines into the NHS..."

By the end of next year Monitor will expect all NHS hospitals applying for FT status "to scrutinise their balance sheet in this way".

"Monitor was providing tools to help foundation trusts work out which "service lines" they made money from under the NHS price list or tariff."

Where they were making money, they could consider expanding the work to boost surpluses that could be reinvested in services, said William Moyes, Chair of Monitor.

Currently, primary care trusts could require a foundation trust to provide anything that it designated as a 'core service'.

"But the time may come when foundation trusts may be able to walk away from a service, provided we are confident that the primary care trust has alternative suppliers."

The aim was to "understand profitability, efficiency and quality - and to strike the right balance between the three", he said, with hospitals merely "behaving like any other business" and understanding their profit and loss centres.

All foundation trust applicants would be expected in time to have such data - and "once they have the information, they would be pretty stupid not to use it", Mr Moyes added.

So the body which regulates FT's is telling them to concentrate on "profitable" work, whilst it predicts that they may not always have to carry out 'core services'.

Money in the bank

In the statement of preliminary results for March 2006 Monitor said that FT's need to deliver larger surpluses. "...it is essential that we move swiftly to an environment where securing significant surpluses is the norm, rather than the exception". Already FT's have built up significant surpluses. In 2006-07 they made a surplus of £130 million, increasing their "profit margin to 6.7%".

FT's have been given the right by the government to sell off land (previously a public asset) and keep the receipts. Previously the money from this would go into the NHS pot and be re-distributed to areas of greatest need.

If you add up this year's profits, together with that of previous years plus the money from sale of assets the FT's have unspent reserves of £995 million. This is money which has in effect been taken out of the NHS and is lost to it.

The "Benefits"

The Swindon & Marlborough Trust says that "the main advantage" of gaining FT status is that "it will bring us even closer to the people who work for us and the people we care for."

Staff and members of the public will be able to become 'members' of the Trust (more on this below).

In a section headed "Healthcare is our business" the Trust says that FT status will "require a change in the culture of the organisation to become even more focussed on the needs of patients and our local population." It will give the Trust "greater financial freedom to develop facilities and services and to reflect local needs and wishes more closely."

And, most importantly (from the viewpoint of the management) "it will also give us *more business and commercial opportunities* (our emphasis) to offer services in new and innovative ways."

This is so much spin. Take for instance the assertion that it will bring the management 'closer' to the staff. The reality of the implications of FT status is reflected in *the refusal of the Trust management to commit themselves maintain NHS wages and conditions of service. What other conclusion can staff draw than*

management are likely to want cut their wage bill in order to ensure they make a 'surplus' which they can keep.

So far as the needs of patients are concerned, when the profit motive is entrenched in the system then patient needs will take second place.

More "Freedom"

The experience of FT's elsewhere shows how the process of turning them into businesses tends to lead to management's wanting to operate away from public scrutiny, on the supposed grounds of 'commercially sensitive' decisions.

The Manchester Evening News recently reported that "Health bosses at Wythenshawe Hospital have voted to stop holding monthly board meetings in public in order to protect commercial information."

"NHS hospitals are required to hold open meetings unless discussing sensitive information. But Wythenshawe has more freedom because it is a foundation trust. Both Steeping Hill Hospital and Hope Hospital made similar decisions when they achieved foundation status..."

Yasmin Zalzal, a regular attendee of Wythenshawe's board meetings, said:

"I am furious about the decision. I think it is wrong that they should be deciding how to use public money in private. We keep hearing how patients should have more information and more choice in the NHS, but this seems to be going the opposite way."

Jeff Wilner, chairman of the University Hospital of South Manchester, defending the decision, said: "We do not get many people at our meetings and we often make commercially sensitive decisions. We have almost 9,000 members and they elect a council or representatives, and they will be invited to our board meetings four times a year. They will be given an appropriate minute (???) of our meetings. We have found we are repeating items in the public and private sessions and it is not an efficient use of our time."

Martin Rathfelder, of Manchester Health Watchdog, said: "Board meetings across Manchester have become less open as trusts are increasingly run as businesses. It makes me wonder what they are talking about in private that they do not want people to know about. I am not very happy - public organisations should make their decisions public."

Will Swindon & Marlborough Trust make a public commitment that all its Board Meetings will be held in public?

In June the Times reported that:

"There are advantages to being special, and foundation trusts are making the most of their station. Nursing Times reports that these trusts are using their independent status to opt out of reporting clinical incidents, saying the guidance on reporting incidents to the National Patient Safety Agency (NPSA) does not apply to them."

It is not mandatory for any trust to use the reporting system, but a large majority of NHS trusts are signed up to it. But Monitor, the foundation trust regulator, says it is up to individual foundations trusts to decide."

Members and Governors

Much is made by the Trust about the 'membership' system which is allowed in FT's. Staff will automatically be members unless they 'opt out', whilst residents in the catchment area can apply to be members. They will be able to:

- Vote for governors "to represent their views" on the FT's new Council of Governors.
- Stand for election as a governor.
- Be consulted about our plans for future healthcare services and hospital facilities.
- Contribute views and ideas to the improvement of patient care.
- Receive regular communication from the Trust about its activities.

There are some key questions about these arrangements, above all the question of *accountability*. Once members elect a governor, how can they ensure that they "represent their views" on the Council of

Governors? Will there be any hustings for candidates? Will they be able to write explaining why they are standing and what their views on the health service are? And what procedure would there be available to members if they felt that the governor elected in their constituency was not representing their views?

The Trust says that members will be consulted about plans for future healthcare services and hospital facilities. But 'consultation' most often means that management tell you what they are going to do, ignore what problems you raise and go ahead and do it anyway.

What about the Governors? The Trust says that their role is to:

"provide the link between the local community and the Trust Board. Their role will involve securing engagement with the local community to ensure a strong link between the views, needs and aspirations of our communities and the decisions made by the Trust Board about our services and how they should be delivered."

Engagement; what does it mean? What we suspect it means is that governors would 'take on board' peoples views but in fact act as individuals pursuing their own agenda. Will there be any obligation on Governors to meet with the people who elected them?

The Trust refers to "constitutional arrangements that clearly define the role of members, governors and the Board of Directors." Will these constitutional arrangements be part of the consultation? If not then it would merely serve to underline that it is not a genuine consultation. The relationship between these three components will determine who has power of decision. Despite all the spin about members being able to 'influence' decisions we expect that power will reside in the hands of the Board of Directors. The Board of Governors will be responsible only for "strategic" direction. The day to day management will rest with the Board of Governors. Will governors be able to challenge or block management proposals?

The test of whether or not members had real 'influence' would be, for instance, if they were balloted over a proposal to end provision of a particular service by the Trust – a big decision which will affect local people, meaning that they might have to travel elsewhere. Will the 'members' have any power other than electing governors? And will they be representatives of members, accountable to them?

Summary

Swindon TUC is opposed to FT status because it represents part of the process of the break up of the NHS, and its transformation into a business, in which self-standing Trusts war with each other for 'customers'. It is clear from the decisions of Monitor that FT's are expected to concentrate on 'profitable' work and to abandon 'un-profitable' activity. We have come a long way since our then MP Julia Drown assured us that private companies would not be involved in clinical activity within the NHS.

If the 'consultation' is to be a genuine one then local people should have the opportunity to express a view on *whether or not* the Trust should move to becoming a FT.

Trust staff should be put on their guard by the refusal of management to make a commitment to maintain NHS national pay and conditions of service.

Far from concentrating on the "needs of patients and local people" a FT will concentrate of pushing up surpluses and trying to dispense with 'unprofitable' work, for some other organisation to bear the cost.

The competitive market will inevitably create 'winners' and 'losers'. It will lead to the growth of inequalities in health provision from one area to another.

Some questions to the Trust

From the foregoing with have the following questions for the Swindon & Marlborough Trust.

1. Why will they not make a commitment to maintain NHS wages and conditions of service?
2. Will they make a commitment that all Board meetings will be held in public if they become an FT? Will members have a right to attend them?
3. Will the "constitutional arrangements" be published as part of the consultation?
4. What procedure is the Trust proposing for election of Governors?

5. Will governors be accountable to members? Will they have an obligation to hold periodic meetings open to members in the constituency they represent?
6. What will be the relationship between the governors and the Board of Directors? Will the governors have the power to override proposals of the Board?

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