

UNISON guide to Ambulance Foundation Trusts

1 - Foundation Trusts (FT's) – Background.

A detailed guide to NHS Foundation Trusts and UNISON's position on the issue can be found on our website at <http://www.unison.org.uk/foundation/index.asp> . Knowledge of the issues and an understanding of the steps that need to be taken by trusts to achieve foundation status are desirable to enable UNISON representatives to maximise their influence and involvement in this area.

2 - The FT process and timescales.

In brief, trusts have to satisfy their Strategic Health Authority (SHA), The Department of Health (DH) and ultimately Monitor, the FT regulator that they are suitable to become a foundation trust. Along the way, a number of standards have to be met relating to quality, finances, governance and business planning.

The first stage entails a **diagnostic assessment** of the Trust by their Strategic Health Authority (SHA) on the likelihood of their application for FT status being successful. This has the effect of producing an action plan that identifies risks, areas that need improvement and an estimated timescale for readiness for an application to progress to the next stage (scrutiny by the DH). This is not likely to be much less than a year in the "best case" scenario.

The DH scrutiny stage is referred to as phase 1 in the Monitor / DH guidance for FT applicants that can be accessed at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073630).

This currently estimates that a further period of 43 weeks will elapse between phase 1 and the Monitor board final decision on the FT application (end of phase 4). Published time scales suggest that in all the process will take the best part of two years to complete as follows:

Stage / Phase	Time Scale (weeks)	Aggregated (weeks)
SHA diagnostic	52	52
Phase 1 – DH Entry	4	56
Phase 2 - DH pre-submission	18	74
Phase 3 - Historical Due Diligence	7	81
Phase 4 – Monitor Assessment	14	95

However it should be noted that there is currently a concerted effort to speed things up as approximately only a third of "provider" NHS Trusts in England had achieved FT status by September 2008 – the 2005 stated target of all trusts realising this by the end of 2008 has proved to be a little optimistic.

3 - Maximising UNISON's influence and involvement.

UNISON opposition to FT's is well known and well documented (see website link above). However we recognise that branches have to work with FT's in order to protect the interests of our members. How deeply branches get involved in the governance structures is an issue that has been addressed by motions passed at Health Conference (appendix 1, pages 5 & 6).

In any event UNISON representatives should be as fully informed as possible throughout all stages of the process. Initial requests for information should be formally pursued through the existing local joint industrial relations mechanisms but it is recommended for purposes of clarity that arrangements are formalised through a memorandum of understanding (MOU). An example is attached as appendix 2 (page 7).

Whilst the main determining factor in achieving FT status is current financial stability and future viability a successful FT business plan must also incorporate an acceptable Human Resource strategy and demonstrate meaningful stakeholder involvement. Key references in the DH guide are as follows:

Page No	Section	Stage	Applicants' Requirement
14	3.4	Phase Two – DH Pre-submission Phase	Bullet point 3 - <i>demonstrate that they have the support and involvement of staff and other local stakeholders for their vision for reform;</i>
17	4.2	Phase Two – DH Pre-submission Phase	Bullet point 5 - <i>finalise it's detailed five year integrated strategic business plan, which will incorporate the HR implications, i.e. workforce requirements and plans to effectively involve, engage and develop the workforce, along with wider plans for organisational development whilst continuing to maintain compliance with statutory obligations:</i>
19 / 20	4.2.2	Phase Two – DH Pre-submission Phase	See whole section but especially final paragraph as follows: <i>Organisations need to give all their staff opportunity to contribute to the development of proposals as well as engage in discussion with other local NHS organisations and other key stakeholders, for example unions, and relevant education and training establishments and other local HR teams and departments within the health community. Evidence and action taken as a result of the feedback received must be included in the application documentation when submitted.</i>

To quote the introduction to 4.2.2 on page 19 “NHS Foundation Trusts are expected to be model employers” A major impediment to Ambulance trusts meeting this criteria might be a failure to address the issue of having a number of different HR policies and staff related procedures still in place based on those in existence prior to merger. Issues such as this are only likely to be resolved amicably in partnership with the staff trades unions.

4 - Foundation Trusts and Agenda for Change (AfC)

The “freedoms” that FT’s enjoy are not limited to generating and retaining income but also impact on staff pay and conditions. Annex K of the AfC handbook (accessible at <http://www.nhsemployers.org/pay-conditions/pay-conditions-3828.cfm>) details those areas where FT’s can operate with greater autonomy, including *“the ability to offer alternative packages of benefits of equivalent value to the standard benefits set out in this agreement, among which the employee can make a personal choice (e.g. greater leave entitlements but longer hours)”*.

Great caution should be exercised over any proposals to move away from the AfC provisions. Whilst the initial carrot may seem attractive detailed consideration should be given to the consequences such as what systems are in place outside the trust to support a local terms and conditions package including those relating to disputes resolution and determination of an annual uplift to pay and related conditions. It is essential that the branch’s Regional Officer is fully involved in any discussions in this area before any final decisions are made.

5 - Ambulance Foundation Trusts

It is a stated aim of all English Ambulance Services to achieve FT status. The employers are co-ordinating their efforts through the Ambulance Service Network (ASN) that is part of the NHS Confederation, the independent membership body that represents over 95% of NHS organisations.

The NHS Confederation also has a Foundation Trust network that will be providing assistance to Ambulance Trusts in achieving FT status. There are currently two “pioneer” ambulance trusts, North East (NEAS) and London (LAS) that are going through the process and working on producing a diagnostic template that can be used by other Ambulance trusts. On the basis that these are the two most advanced trusts in the process it is unlikely the first Ambulance Foundation trust will be with us until the latter part of 2009.

UNISON will through its Ambulance Sector Committee maintain a national perspective on this issue and with the assistance of Dave Godson, UNISON national lead on Foundation Trusts, provide generic and specialist guidance. Overleaf are some Q & A’s provided by UNISON’s London and North East Ambulance Service branches that may be useful.

Questions and Answers from London Ambulance Service (LAS) and North East Ambulance Service (NEAS).

Question	LAS Response	NEAS response
Is UNISON involved in the FT process, and if so in what way?	We are involved to the extent we are kept informed of progress much as it is. We made the decision to 'keep our powder dry' at this initial stage as we put together certain conditions for LAS Unison's full involvement. A meeting with Chief Executive is being arranged to outline some of our concerns and demands. We will not sit on any 'board' at present until our negotiations are finished.	Yes we are involved; we are part of a FT working group and have regular updates at our Joint Consultative Committee (JCC) meetings with directors of the trust.
Who made the initial approach for involvement, UNISON or management?	Management.	Unison branch secretary, and full time officer, after assurances were given by the trust on staffs terms and conditions and union recognition under FT.
What is the timetable for your trust	(see below)	Hoping to apply July 2009
At what stage / phase is your trust at?	Stages within Diagnostic Assessment completed to the best of my knowledge.	Completed diagnostic test with SHA and completing action plan.
Are all relevant documents made available to you?	If needed, yes.	yes
How are UNISON members / trust staff involved in the process?	(See Q 1 above)	Updated at monthly FT group meeting, and at bi-monthly JCC meetings. Pulse magazine articles and intranet site; it has also been agreed joint staff side / management road shows will take place.

Appendix 1 – Health Service Group Policy**Motion 19. 2007 UNISON Health Conference****FOUNDATION TRUSTS – ENGLAND -**

Conference notes the Government's intention for all English NHS Trusts to attain Foundation status by 2008. It further notes that the pace and number of Trusts applying for Foundation status is increasing.

UNISON maintains a position of opposition to Foundation Trusts (FTs) and recognises that the additional freedoms granted to FTs can potentially undermine not only the ethos and continuity of the NHS as a public sector entity but also the integrity of national agreements such as Agenda for Change.

UNISON adopts a member-centred approach to change in the NHS recognising that whilst we oppose some changes we still have members working in those areas where changes take place and that we need to negotiate for and campaign in their best interests which can mean having to organise in structures that we are opposed to. This 'twin track' approach is one that can be applied to Foundation Trusts.

Conference is concerned that under the guise of 'commercial confidentiality' many FTs are refusing to divulge information used for monitoring and bargaining purposes which can seriously impact upon maintaining national agreements such as Agenda for Change. Therefore an 'intelligence network' is essential to monitor local variations in national pay, terms and conditions enabling such information to be shared across UNISON branches in England and so prevent the underpinning principles of a national pay system being eroded.

Conference also recognises that the new governance arrangements pose a threat to trade union organisation and recognition in FTs through the introduction of the staff constituency. Equally, holding office as a staff side or union representative within this constituency may be seen to compromise any stance of opposition to cuts, redundancies etc. However, the ability for trade unions to be recognised and to organise must be maintained and therefore branches should ensure that staff side/union places are built in to the framework.

Conference calls on the Health Service Group Executive to:

1. Maintain a position of opposition to FTs on the grounds that they undermine the NHS as a public sector entity and the integrity of national agreements for pay, terms and conditions;
2. Develop an intelligence network using UNISON's Bargaining Information Support system to monitor local variations in national pay, terms and conditions and to prevent the underpinning principles of a national pay system being eroded;
3. Encourage regions to develop FT forums to allow cross-branch discussion on local variations and agree a common position;
4. Encourage branches to participate in FT governance arrangements by negotiating staff side/union positions in the staff constituency and to produce a branch guide to assist in this process.

Appendix 1 cont.– Health Service Group Policy**Motion 11, 2008 UNISON Health Conference.****TRADE UNION REPRESENTATION ON FOUNDATION TRUST BOARDS**

Conference firmly believes that the current basis of the composition of Foundation Trust Boards is not conducive to good partnership working as Trade Union Representatives are not allowed on these Boards in any formal capacity. Guidelines issued by the Department of Health confirm this position and the branch is concerned that this can limit or act against the concept of partnership working which applies at every other level in the NHS. We also consider that it limits the transparency of the decision making of the Foundation Trust Boards and can hinder the maintenance of good industrial relations.

If allowed to go unchecked this situation potentially undermines Trade Union involvement in decision making and allows Foundation Trusts to impose decisions which may be detrimental to staff and services in those Trusts without any opportunity to influence decisions before they are taken.

Conference therefore considers that Trade Union involvement in Foundation Trust Boards is necessary in order to have a voice in the decision making process at the highest level. We understand, however, that Trade Union Representatives in these Board positions could be subject to all sorts of pressure and potentially compromised if they have full voting rights. Conference is therefore of the view that any positions held on Trust Board by Trade Union Representatives should be of observer status with speaking rights only. These Trade Union Board members must also be able to report back to their constituent members and not be gagged by inordinate use of "confidentiality" measures in respect of Foundation Trust Board decisions or discussions.

Conference therefore calls on the Health Service Group Executive to seek urgent discussions using all appropriate mechanisms (eg, Labour Link, Staff Council) with the Department of Health/Monitor to address these issues and achieve the inclusion of Trade Union representation and involvement on Foundation Trust Boards. Representation should be on the basis of a minimum of two Trade Union Representatives on each Board but with provision for more dependent on the size and geographic spread of the Foundation Trust.

Appendix 2 – Specimen Memorandum of Understanding

Oxfordshire & Buckinghamshire 
Mental Health Partnership NHS Trust

OBMH as an NHS Foundation Trust: Memorandum of Understanding with Trade Unions

1. In becoming an NHS Foundation Trust, OBMH intends to deliver improvements to its services and facilities and offer new accountability to local communities.
2. As an NHS FT, OBMH will deliver and develop services as part of the National Health Service. It can develop new partnerships but unless the legislation changes, cannot be privatised. **An NHS FT is part of the NHS.**
3. When the Trust is licensed as an NHS FT, all its employees will remain NHS staff and continue with their existing terms and conditions, with all their rights protected.
4. In becoming an NHS FT, OBMH aims to modernise its workforce and fully use the opportunities available for staff involvement and influence. Alongside service users, carers and local people, staff will have new opportunities to influence decision-making in the Trust.
5. Agenda for Change and the Knowledge and Skills Framework form the basis of terms and conditions of employment for most Trust staff. The Trust and its Trade Unions will continue to use negotiation and consultation arrangements in line with the organisational change policy already agreed. This and all other OBMH policies will be those the NHS Foundation Trust operates by and will be subject to review and updating.
6. The Staff Partnership, Negotiation and Consultation Committee will continue to negotiate any potential or proposed changes to employment policies or terms and conditions. OBMH's aim is to continue to improve its position in the employment market and will work with its employees to achieve this.
7. Membership of the NHS FT is no substitute for membership of a Trade Union and is not in any way in conflict with Trade Union membership.
8. The Trust will continue to promote membership of recognised Trade Unions which represent Trust staff and will continue to honour arrangements for facilities and time off for Trade Union representatives.
9. Workforce planning is a key part of the Trust's strategy for service development. Consequently, the Trust aims to invest in staff training and developing skills to help ensure that it has an appropriately skilled and flexible workforce to deliver its future services.
10. In support of its staff, OBMH will ensure that robust and effective systems are in place for career development and succession planning. This will include personal and professional development.
11. To best meet patients' needs against a background of continuing NHS targets for efficiency, economy and productivity, the Trust and Trade Unions will work together to support staff in influencing in a constructive way the design of future services and the job roles needed to deliver them, and in developing the skills needed to succeed in future job roles.
12. The successful delivery of OBMH's five-year business plan depends upon the staff working for the Trust and it will work at all levels to ensure that it delivers improvements for patients and staff whilst meeting the requirements of its commissioners and securing the future of its services.