

NHS Foundation Trusts information guide

Introduction

The creation of NHS Foundation Trusts is a key step in public sector reform – giving greater freedoms to NHS organisations. This is part of the wider programme of moving from an NHS controlled nationally towards an NHS where standards and inspection are national but delivery and accountability is local.

NHS Foundation Trusts will remain fully part of the NHS and will have a primary purpose of providing NHS services to NHS patients. They will be subject to NHS standards, NHS performance ratings and NHS systems of inspection. NHS Foundation Trusts will pioneer a new model of social ownership, giving local communities real opportunities to get involved in the stewardship of their local hospitals.

This information document is part of a first series of 8 short documents covering key aspects of NHS Foundation Trust policy and interrelated areas.

Human Resources

This guide sets out how NHS Foundation Trust freedoms will impact on Human Resources policies and practices.

Human Resources and the ongoing support and development of the workforce is key to supporting and leading change in the modern NHS. Through the development of innovative and ground-breaking local service delivery and clinical development strategies, Human Resources enables healthcare organisations to shape and develop the workforce, providing the working conditions that enable innovation

and change to take place. NHS Foundation Trusts will continue to have excellent Human Resources policies and practices that drive this innovation and change.

Innovation and excellence in Human Resources

As high performing organisations NHS Foundation Trusts will be expected to be model employers.

The new freedoms they enjoy will enable them to innovate in order to develop the workforce for the delivery of high quality patient care,



taking into account new and future healthcare service development and delivery, and the opportunities from the broader system reform agenda.

NHS Foundation Trusts will be expected to:

- Create a culture of working in partnership, involving and engaging the workforce, unions, patients and the public as well as other stakeholders and partners;
- Encourage devolved decision-making;
- Enable learning and development to support the current and future workforce; and
- Develop and implement Human Resources practices that are recognised as good practice across the NHS and beyond.

This will be supported by an NHS Foundation Trust's ability to develop new ways of rewarding and retaining staff.

Human Resources freedoms and scope for development

NHS Foundation Trusts will remain bound by prevailing UK and European employment law and the requirements of professional bodies. There will be scope for NHS Foundation Trusts to develop advanced Human Resources practices based on the learning from other organisations in

the wider public sector, private sector and beyond the UK. Some of the opportunities may also be undertaken in partnership with other (local) organisations, e.g. voluntary, or otherwise where this is seen to continue to provide opportunities for the workforce and raise Human Resources practice.

NHS Foundation Trust status will bring increased freedom to develop local recruitment and retention initiatives.

For those staff whose contracts are covered by *Agenda for Change*, NHS Foundation Trusts will be able, following consultation with neighbouring NHS employers, to pay recruitment and retention rates above the normal 30 per cent cap, where that is justified.

Although free to devise and implement local solutions, NHS Foundations Trusts will still benefit from collectively agreed NHS agreements.

Modernising pay and rewards

First wave NHS Foundation Trusts will be amongst the first to implement *Agenda for Change*.

Staff working in these new organisations will have the opportunity to transfer to new, more flexible terms and conditions.



They will be amongst the first in the NHS to benefit from:

- Fairer pay that more accurately reflects the work they do and the skills they have;
- A more transparent pay structure;
- Recognition and reward for flexible working;
- Greater scope to devise new roles and different working patterns; and
- Structured review and development schemes.

Broader contractual issues

Existing employees will keep their existing terms and conditions and continuity of service will not be affected by the change from NHS Trust to NHS Foundation Trust. Staff employed by the NHS Foundation Trust will continue to have full access to the NHS pension scheme, including the associated injury benefit scheme and retirement arrangements¹.

¹When an NHS Foundation Trust is authorised, the 'old' NHS Trust is not dissolved. Instead, the Bill provides that the same organisation continues, with a new legal status. This means that all of the contracts of employment between the organisation and its employees will also continue, on the same terms.

In technical legal terms this also means that the Transfer of Undertakings (Protection of Employment) Regulations 1982 (TUPE), which protect the employment rights of employees when there is organisational restructuring, is not needed and does not therefore apply. But the government's policy for public sector restructuring of this kind is that the principles

All essential healthcare services – and the staff needed to provide them – will be protected in the event of an NHS Foundation Trust getting into financial trouble².

Staff involvement – working in partnership

NHS Foundation Trust staff will have more opportunity than ever before to influence planning and decision making both in their own work and in the future service development of their organisations. There will be a number of locally developed mechanisms to enable staff to be informed and engaged in this way.

of the regulations should be followed nonetheless, to ensure that staff are treated no less favourably than if the regulations did apply. In particular, applicants will need to consult staff and unions on the proposed Human Resources strategy for the NHS Foundation Trust.

² If financial difficulties are serious enough to result in a breach of an NHS Foundation Trust's terms of authorisation, the Independent Regulator will have the power to intervene and take action to rectify the problem. If remedial action fails and an NHS Foundation Trust is dissolved, staff will normally be transferred to another body under the same terms and conditions and any transfer will be subject to TUPE regulations.



Through the new governance arrangements, staff will also have the opportunity to:

- Register as members of the NHS Foundation Trust;
- As members, take part in elections to determine who represents staff on the Board of Governors;
- As a member, stand for election to the Board of Governors; and
- Through the Board of Governors, be more closely involved in decisions about the development of the strategy for the NHS Foundation Trust.

In addition, each NHS Foundation Trust applicant will be expected to consult a range of stakeholders with a potential interest in at least some part of the organisation's strategic direction. This will include staff and unions. Organisations should also give all their staff the opportunity to contribute to the development of its Human Resources strategy.

Through partnership working, Agenda for Change will be implemented, thus enabling a more collaborative based working style to issues concerning terms and conditions.

Learning and personal development

NHS Foundation Trusts will retain their responsibilities for education and training, including continuing professional and personal development.

Like other NHS organisations, they will work closely with Strategic Health Authorities, Workforce Development Confederations and local educational institutions to identify and meet future staffing needs. They may also develop new local partnerships where these are seen to enhance or improve current development opportunities.

Further Information

This information document is part of a first series of 8 short documents covering key aspects of NHS Foundation Trust policy and interrelated areas.

Other titles in the same series are: System Reform in the NHS, Financial Reforms: Payment by Results, Financial Freedoms, Accountability and Regulation, Members, Governors and Contracting.

A Guide to NHS Foundation Trusts and A Short Guide to NHS Foundation Trusts, published by the Department of Health, are available at www.doh.gov.uk/nhsfoundationtrusts

Details on Agenda for Change and all published documentation can be found at www.doh.uk/agendaforchange