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For employers



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## The right foundation?

*Guidance on foundation  
trusts for employers*

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### *Guidance on foundation trusts for employers*

This guidance has been developed by the RCN to help employers understand more about foundation trusts. It is aimed at both employers in trusts that are in the process of achieving foundation trust status and those where this option is being considered.

A brief description of foundation trusts is followed by information about how they are created. Most importantly, this publication includes a scorecard that has been devised by the RCN to examine a trust's application for foundation status in detail. This will enable employers, RCN representatives and the public to ascertain whether or not a trust has achieved and can maintain the standards of quality expected by the RCN.

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## What are foundation trusts?

Foundation trusts are a completely new kind of health care organisation that are being created under legislation contained in the Health And Social Care (Community Health and Standards) Bill, which received royal assent in November 2003.

Although foundation trusts are fully part of the NHS, they are locally controlled and have greater freedom to run their own affairs, including managing their own budgets. The government believes that this will encourage greater innovation in how local health services are delivered, as they are shaped to reflect the needs and priorities of each community.

In a nutshell, NHS foundation trusts are different from existing NHS trusts because they will:

- ◆ have new freedom to decide locally how to meet their obligations
- ◆ be accountable to local people, who will become members and governors
- ◆ be authorised and monitored by an independent regulator.

## Who is eligible and when will the first foundation trusts come into being?

Eligibility is restricted to those trusts that gained three stars in the NHS performance ratings. Initially, 25 NHS trusts applied for foundation trust status and 24 will be established as the first wave – 12 from 1 April and 12 from 1 July. An additional 32 trusts have passed a preliminary application and are on their way to becoming foundation trusts from October 2004.

## What is the RCN's view?

The RCN understands that foundation trusts are a dramatic change within the NHS. We also recognise the need for initiatives in health service delivery and are aware that foundation trusts will be founded upon NHS principles – free care, based on need and not ability to pay. We remain committed to retaining these principles in all NHS services.

However, we have some concerns about the potential longer-term effects of NHS foundation trusts, particularly whether they will be able to maintain NHS values. Primarily, we believe that foundation trusts must not lead to greater divisions within the NHS. Instead, they should generate better standards of patient care

and improvements in service provision across all health care services.

## Has the RCN made its opinions known?

We have sought to amend sections of the legislation in several areas, achieving notable success on the inclusion of nurse executive posts on each foundation trust's board of directors. We will actively monitor the situation to ensure that this happens on the ground.

## What is the process for achieving foundation trust status?

All three star NHS trusts applying for foundation trust status must follow an identified process of consultation and negotiation. Each application is passed to the Secretary of State for Health, who decides if the trust can become a shadow foundation trust. As part of this process, the health secretary requires trusts to demonstrate that they have the support of local trade unions. Whether or not the RCN supports an application will be decided by RCN representatives in conjunction with staff at the RCN regional office. Their view will be based on trusts showing commitment to the RCN's specially devised scorecard.

## Tell me more about how the RCN decides whether it will support an application for foundation trust status

Before the RCN can support a local application, we must be assured that the trust is totally committed to addressing our concerns. That's why we have created our scorecard, which acts as a tool to help everyone assess an individual trust's performance against our quality criteria. The RCN scorecard demonstrates the standards that we expect trusts applying for foundation status to achieve and maintain. It covers four main areas and these are:

- ◆ governance
- ◆ human resource management
- ◆ service delivery
- ◆ NHS principles.

The RCN requires evidence that foundation trusts are committed to each of the factors identified in our scorecard. This should take the form of:

- ◆ statements from the trust in its public documents of application and consultation
- ◆ recorded statements within formal negotiations and consultation with staff side organisations.

- ◆ other documents – for example, the trust's human resources and financial strategies and its service development plan.

## Why produce a scorecard?

We believe that the RCN's scorecard is an essential tool in assessing how individual trusts wish to develop as a foundation. It will also provide a useful mechanism to monitor progress, highlighting any areas of concern and enabling developments to be checked. RCN representatives and members of the public can also use the scorecard to determine the suitability of a proposed foundation trust. The RCN has produced a companion leaflet, *Guidance on foundation hospitals for RCN representatives* (publication code 002 250), which also includes our scorecard.

## Will the RCN continue to monitor foundation trusts?

Where there is evidence that a trust is failing to meet its agreed commitments – judged against the factors on the RCN's scorecard – the RCN will make representations to the trust, MPs and government and potentially the Independent Regulator.

## What information is available?

The Department of Health has published a range of materials to help trusts and these include:

- ◆ *Guidance on consultation* (DH, 2003a)
- ◆ *A guide to developing governance arrangements for foundation trust applicants* (DH, 2003b)
- ◆ Detailed information guides on topics like: financial freedoms, accountability and regulation, human resources and contracting.

You may also like to provide staff with information. For example, the Department of Health has produced a leaflet entitled: *A short guide to NHS foundation trusts* (DH, 2003c) which explains what they are and how they work.

## Where can I get further help?

For help to complete the RCN's scorecard or information on other aspects of foundation trusts, contact the RCN's policy advisers:

- ◆ Colin Beacock,  
telephone: 020 7647 3903 or  
email: colin.beacock@rcn.org.uk

- ◆ Jill Thornton,  
telephone: 020 7647 3899 or  
email: jill.thornton@rcn.org.uk

Further information is also available from:

- ◆ the RCN's website: [www.rcn.org.uk](http://www.rcn.org.uk)
- ◆ or by visiting the Department of Health's website at: [www.dh.gov.uk](http://www.dh.gov.uk) and search for information on foundation trusts.

## References

Department of Health (2003a) *Guidance on consultation*. [www.dh.gov.uk](http://www.dh.gov.uk) and search under Policy and Guidance (Accessed 18 February 2004) (Internet).

Department of Health (2003b) *A guide to developing governance arrangements for foundation trust applicants*. Available from: [www.dh.gov.uk](http://www.dh.gov.uk) and search under Policy and Guidance (Accessed 18 February 2004) (Internet).

Department of Health (2003c) *A short guide to NHS foundation trusts*. Available from: [www.dh.gov.uk](http://www.dh.gov.uk) and search under Policy and Guidance (Accessed 18 February 2004) (Internet).

## Foundation trusts scorecard

This scorecard reflects the standards that the RCN expects trusts applying for foundation status to achieve and maintain.

### 1 Governance

i	There must be a nurse executive appointed as a member of the Board of Directors	
ii	There must be a minimum of five seats for representatives of the staff constituency on the Board of Governors	

### 2 Human resource management

i	There must be a continuing commitment from the trust to partnership working with staff side organisations and trade unions at strategic level	
ii	There must be a commitment to partnership working with staff side organisations and trade unions in designing local policies and procedures to include:	
	● workforce resources	
	● equality and diversity	
	● pay and terms/conditions of employment	
	● health and safety	
	● service development and transformation (including Working Time Directive and junior doctors' hours)	
	● communication	
	● continuing professional development and practice supervision	
	● staff development, disciplinary procedures and staff representation	
	● occupational health and working well.	
iii	There must be a locally agreed strategy for the implementation of Agenda for Change, including designated time for RCN representatives to support nurses in the implementation process	
iv	There must be a strategy for the implementation of Improving Working Lives and Practice Plus†	

† For information on Improving Working Lives and Practice Plus refer to: [www.dh.gov.uk](http://www.dh.gov.uk)

### 3 Service delivery

	There must be a strategy for the annual evaluation of the effects of NHS foundation trust status across the local health economy. This must include the effects on:	
i	recruitment and retention of nurses in non-foundation trusts in the NHS	
ii	recruitment and retention of nurses in the independent, voluntary and private sector within the local health economy	
iii	service development issues in non-foundation trusts and local independent, voluntary and private sector services, including effects on capacity and range of services.	

### 4 NHS principles

a	There must be a strategy for the evaluation of achievements of the trust in respect of NHS principles. This would include an evaluation of how the trusts have worked in partnership with other organisations in the local health economy to:	
b	ensure a universal service based on clinical need not ability to pay	
c	provide a comprehensive range of services	
d	create a service which is shaped by the needs and preferences of individual patients' families and carers	
e	identify and respond to the differing needs of local populations	
f	minimise errors and improve service quality across the health economy	
g	support and value staff across the local health economy	
h	ensure that public funds go solely to NHS patients	
i	promote health and reduce inequalities across the local community and national service	
j	create seamless services	
k	ensure confidentiality and improve information on services, treatment and performance.	