Royal College
of Nursing

Policy Briefing 05/2010

New foundations: the future of NHS trust providers

April 2010

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Executive Summary

Introduction

In February 2010 the Royal College of Nursing surveyed members in England working in NHS foundation trusts. The aim was to build a snapshot picture of our members' opinions about their trusts to help us understand how foundation trusts are performing in the following areas:

- engaging with patients, local communities and staff to design services and shape strategy
- using their greater independence
- helping nurses to deliver the highest quality of care.

Background

It is current government policy for all NHS trusts to work towards becoming NHS foundation trusts[1]. Since 2004, 129 NHS trusts have been granted foundation trust status[2].

As a public benefit corporation, foundation trusts are intended to be both responsive and accountable to the local populations that they serve. In order to do this, the foundation trust model is based on transferring ownership and accountability from the centre (the Department of Health) to the local community.

An essential part of this new accountability is the strength and function of the membership of each individual foundation trust. Foundation trusts should have governance arrangements which allow local stakeholders and the public, though their membership, to help shape the strategy and direction of the trust. Members should include staff, patients and the local community. Collectively, members have the power to elect a board or council of governors. Individual members can also stand for election themselves.

The board of governors should represent the interests of foundation trust members and hold the trust's board of directors to account by ensuring that the board is acting within the terms of its authorisation and that it is doing a good job of taking forward the wider strategy.

Foundation trusts also have greater freedoms than other NHS trusts. For example they can borrow money from public and private sources and re-invest surplus cash in patient services.

Survey methodology

A snapshot survey was conducted with 393 RCN members who work for foundation trusts. The sample was representative of the spread of RCN members across the 10 English regions.

The survey was live online 1-28 February 2010.

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[1] The Health and Social Care (Community Health and Standards) Act 2003 established NHS Foundation Trusts as independent public benefit corporations.
[2] Figures correct at 7 April 2010, http://www.monitor-nhsft.gov.uk/

Key issues and themes

1. Locally responsive and membership driven foundation trusts

The overall strategic direction and the services delivered by foundation trusts should be shaped by members. The survey results show that many foundation trusts appear to be failing in their duty to engage with staff and provide evidence for the benefit of, or opportunities for, active membership.

- Nearly half (47 per cent) of the nurses RCN asked didn't feel that being a member of their trust makes a difference to how it is run.

- Only a quarter of nurses had voted in their trust's most recent governor elections (26 per cent).

- Two thirds of nurses did not feel that there had been any improvement in staff morale since attaining foundation trust status (67 per cent).

Community involvement in decision making can be achieved in a number of ways. There must be a culture in which all staff, from the chief executive down, understand the importance of member involvement. There must also be effective systems in place to gather feedback and opinions. The survey results show that in many places RCN members do not see evidence of this.

- Around a third (34 per cent) of nurses said that there were no regular mechanisms such as surveys, facilitated events and interviews, for the trust's membership to give feedback.

- Nearly a third (32 per cent) didn't think that community involvement had improved since their organisation became a foundation trust.

2. Governance of foundation trusts

Foundation trusts must be governed with transparency and accountability in order to be fully answerable to stakeholders. RCN members paint a picture in which the majority of foundation trust boards conduct their business in private and in which nurse directors appear to be remote figures to many of their nursing staff.

- We asked our members how many board meetings were regularly held in private. Nearly half (49 per cent) told us that all or most board meetings were held in private.

- We also asked whether the decisions and priorities reached at board meetings were publicised and communicated back to members and staff. Less that half of nurses agreed this was the case (46 per cent).

- A significant minority of nurses did not know who the nurse/midwife director on their board is (39 per cent).

- We also asked whether nurses had regular opportunities to meet with the nurse/midwife director. Three quarters told us they did not (77 per cent).

3. Foundation trusts' use of new financial freedoms

Foundation trusts are able to utilise greater financial freedoms in order to borrow money and use surplus funds to invest in improved patient services. However, our results appear

to show that RCN members on the wards are not seeing evidence of new financial freedoms in action, or improvements in care.

- 42 per cent felt they hadn't seen improvements in the quality of care since their trust attained foundation trust status.

- When we asked if the trust was making greater use of private finance to fund patient services, the majority of nurses simply weren't sure (48 per cent) and about a third (31 per cent) strongly disagreed that this was the case.

Conclusions

With the results of this survey, nurses have painted a picture of an NHS provider model which is not living up to the vision set out by government in relation to patient and public involvement. The NHS is facing a future in which the drive for continued improvement in quality is coupled with an unprecedented demand for efficiency savings. The nursing team has a crucial role to play in delivering the innovation required, but its potential is not being harnessed.

There has been a groundswell of interest in 'mutual' or 'employee partnership' models as models of delivery for public services, including health care. Mutualism raises the possibility of nurses and patients having a direct input into the running of hospitals.

However, the current governance practices of many foundation trusts are not a meaningful model for future mutual organisations.

Key recommendations

- Foundation trusts need to improve staff membership and engagement strategies. Simply 'opting in' staff to membership is not enough.

- Governors in foundation trusts need to be independent and have the skills to both challenge and support the work of the board of directors.

- The RCN accepts that there may be some need for parts of board of director meetings to take place in private. However, we believe that the majority of business could and should be discussed in an environment in which members are not consistently excluded.

- Nurse/midwife directors on the board should be championing quality throughout the trust. The RCN supports the principle that there should be no more than two levels between sisters and charge nurses on the ward and the director of nursing. This will help to ensure a 'ward to board' culture in the management of the trust, in which openness, quality and patient safety are prioritised.

New foundations:
the future of NHS trust providers

Introduction

The RCN does not oppose the creation of foundation trusts. We believe that each application for foundation trust status should be considered on its merits. To support our members, in 2004 we developed a 'foundation trust scorecard' in which we set out the key principles that should underline any proposed foundation trust[3]. These were based on the themes of clear nurse leadership at all levels, local focus on service planning and robust governance.

Now that England has reached a 'tipping point' in foundation trust membership, the time is right for the RCN to follow up on some of these key themes. This is why the RCN undertook the current survey.

Background

The development of foundation trusts
It is current government policy for all NHS trusts to work towards becoming NHS foundation trusts. There is consensus between the main political parties that foundation trusts should continue to be the model to which all trusts should aspire.

The Health and Social Care (Community Health and Standards) Act 2003[4] established NHS foundation trusts as independent public benefit corporations. As a public benefit corporation, foundation trusts are intended to be both responsive and accountable to the local populations that they serve. In order to do this, the foundation trust model is based on transferring ownership and accountability from the centre (the Department of Health) to the local community.

Foundation trusts also have greater freedoms than other NHS trusts. For example they can borrow money from public and private sources and re-invest surplus cash in patient services.

Since 2004, 129 NHS trusts have been granted foundation trust status[5].

High profile failures
Foundation trusts are intended to be the gold standard of NHS providers. Breakdowns in care or governance failures within such trusts have therefore resulted in high levels of scrutiny. Mid Staffordshire Foundation Trust and Basildon and Thurrock University Hospitals Foundation Trust are two high profile examples of foundation trusts criticised for failing patients.

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[3] RCN (2007), *The Right Foundation? Guidance on Foundation Trusts for Employers*. Download here http://www.rcn.org.uk/__data/assets/pdf_file/0011/78599/002234.pdf
[4] http://www.opsi.gov.uk/acts/acts2003/ukpga_20030043_en_1
[5] Figures correct at 7th April 2010, http://www.monitor-nhsft.gov.uk/

The events at Mid Staffordshire and the subsequent inquiries[6] caused public outcry and generated a large amount of media interest. Most recently, the Care Quality Commission (CQC) announced that 12 of the 22 NHS trusts registered to the body with 'conditions' attached were foundation trusts[7]. This has raised questions as to how so many foundation trusts can have such significant operational flaws. Some of the urgent improvements demanded by the CQC concern fundamental patient care and safety such as unsafe staffing levels.

Foundation trust governance – the board and governors
In light of the events at Mid Staffordshire there has been a renewed focus to determine exactly what is meant by good governance and what makes an effective NHS trust board. Many of the failings identified at Mid Staffordshire can be directly attributed to a failure of the board to prioritise the right issues and to put the right governance structures in place to monitor and improve patient care. The Healthcare Commission (now subsumed by the CQC) found that: *'The trust's board and senior leaders did not develop an open, learning culture, inform themselves sufficiently about the quality of care, or appear willing to challenge themselves in the light of adverse information.'*[8]

A plethora of guidance has been issued. The National Leadership Council recently published guidance which defined the board's role as to *'govern effectively and in doing so to build public and stakeholder confidence that their health and healthcare is in safe hands'*[9]. This includes oversight of the quality and safety of care; investing resources to deliver optimal health outcomes; ensuring the public help shape services; and ensuring public money is spent efficiently and effectively.

The role of the board therefore is to develop strategy and hold the organisation to account for delivery of that strategy, by making sure that assurance systems are robust and reliable. Recent guidance on early warning systems in the NHS, published by the National Quality Board, makes it clear that ultimately it is the board of each trust which is responsible for assuring safe and high quality care[10].

The recent Prime Minister's Commission on the Future of Nursing and Midwifery highlighted the important role the directors of nursing should play as champions of care at board level[11]. The commission recommended that trusts should ensure that within the organisational hierarchy there should not be more than two levels between the nurse/midwife director and sisters and charge nurses. This is to ensure that there is a link between the care delivered on the ward and the decisions made by the board. Again, the National Quality Board's guidance highlights the importance of remaining in touch with 'activities and facts on the ground'[12].

It is the role of the governors to represent the interests of foundation trust members and hold the trust's board of directors to account by ensuring that the board is acting within the terms of its authorisation and that it is doing a good job of taking forward the wider strategy.

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[6] See http://www.midstaffsinquiry.com/; and
http://www.cqc.org.uk/usingcareservices/healthcare/concernsabouthealthcare/midstaffordshirenhsfoundationtrust.cfm
[7] www.cqc.org.uk//newsandevents/pressreleases.cfm?cit_id=36151&FAArea1=customWidgets.content_view_1&usecache=false
[8] Healthcare Commission (2009) *Investigation into Mid Staffordshire NHS Foundation Trust*
[9] National Leadership Council (2010) *The Healthy NHS Board: Principles for Good Governance*
[10] National Quality Board (2010) *Review of Early Warning Systems in the NHS: acute and community services*
[11] Prime Minister's Commission on the Future of Nursing and Midwifery (2010) *Front Line Care: the future of nursing and midwifery in England*
[12] National Quality Board (2010) *Review of Early Warning Systems in the NHS: acute and community services*

Transparency
Foundation trusts operate within a market driven NHS, which makes it inevitable that boards will have to discuss competitively sensitive information in private. However, the majority of strategic decisions should be open to public scrutiny.

The NHS must make up to £20 billion in efficiency savings by 2014. It will be important that all stakeholders understand the principles underpinning the difficult decisions being made at board level.

Public and staff engagement
The National Leadership Council guidance states that engagement with the public, patients and staff is an essential building block for fulfilling the variety of functions of the board.

For example, engagement with staff is an important way in which the board can shape and demonstrate a transparent organisational culture. Effective engagement should also provide a vehicle for staff to share ideas for innovation and improvement as well as to feed into risk management systems to ensure patient safety. The failure to properly capture and take into account patient experience has been highlighted as one of the reasons that care at Mid Staffordshire continued to be poor for so long[13].

Membership
An essential component of foundation trusts' accountability model is the strength and function of the membership of each individual trust. Foundation trusts should have governance arrangements which allow local stakeholders and the public, via membership, to help shape the strategy and direction of the trust. Members should include staff, patients and the local community. Collectively, members have the power to elect a board or council of governors. Individual members can also stand for election themselves.

However the vitality of the democracy within some foundation trusts has been called into question. For example, the *Health Service Journal* has published evidence of poor attendance at governor elections (27 per cent turnout in 2009). Some governor elections have also been uncontested (38 per cent)[14].

It is also apparent from many foundation trusts' membership strategies that frequently staff are simply 'opted in' to membership of their trust.

RCN 2007 survey

The RCN conducted a member survey in 2007, to gather evidence about a range of issues relating to the development and operation of foundation trusts during the earliest phase of their establishment[15].

The survey had two parts. The first was a questionnaire on a range of issues relating to the development and operation of foundation trusts. The second was a series of interviews with RCN activists and staff, on issues raised in the questionnaire.

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[13] Healthcare Commission (2009*) Investigation into Mid Staffordshire NHS Foundation Trust*
[14] www.hsj.co.uk/news/policy/voters-halve-as-foundation-trust-governors-win-elections-uncontested/5008058.article
[15] www.rcn.org.uk/__data/assets/pdf_file/0009/287739/NHS_Foundation_Trusts_Survey_2008.pdf

They were a number of key findings.

- RCN members view local control of a foundation trust, with the full engagement of community and staff constituencies in their governance, as one of the greatest benefits of foundation trust status.

- There was a strongly expressed concern that too much emphasis on a 'big business ethos' could squeeze out patient, public and professional engagement.

- Policy interventions are required to strengthen governance arrangements, promote best practice public/patient involvement and encourage partnership working.

- The RCN and other staff side organisations have a role to play in encouraging more members to get involved as governors.

2010 survey process

The snapshot survey was conducted with 393 RCN members who work for foundation trusts. The sample was representative of the spread of RCN members across the 10 English regions.

The survey was live online 1-28 February 2010.

The RCN asked a series of questions designed to develop understanding of how successful foundation trusts have been in embedding new structures of governance. The questions were also intended to develop our understanding of how well foundation trusts are succeeding in engaging with local members.

A second set of questions covered the themes of investment in the workforce and individual staff; high quality care; patient safety; and the impact of the downturn in the economy.

This report focuses on questions relating to the governance and operation of foundation trusts. The RCN will be analysing the results of the second set of questions in the future.

2010 survey results

Membership
The overall strategic direction and the services delivered by foundation trusts should be shaped by members. Our results show that many foundation trusts appear to be failing in their duty to engage with staff and provide evidence for the benefit of, or opportunities for, active membership.

We asked if nurses felt that being a member of their foundation trust made a difference to how it is run:

- nearly half (47 per cent) of the members we asked didn't feel that it did.

We asked if nurses had voted in their trust's most recent governor elections:

- only a quarter of nurses (26 per cent) had voted.

We asked if respondents felt there had been an improvement in staff morale since attaining foundation trust status:

- two thirds of nurses (67 per cent) did not.

Public and staff engagement
Community involvement in decision making can be achieved in a number of ways. There must be a culture in which all staff from the chief executive down, understand the importance of member involvement. There must also be effective systems in place to gather feedback and opinions. We found evidence that in many places, RCN members do not see evidence of this.

We asked nurses if there were regular mechanisms, such as surveys, facilitated events and interviews, for the trust's membership to give feedback through processes:

- around a third of nurses (34 per cent) of said there were not.

We also asked if they felt that community involvement had improved since their organisation became a foundation trust:

- nearly a third of nurses (32 per cent) did not

Transparency
Foundation trusts must be governed with transparency and openness in order to be fully answerable to stakeholders. It is concerning that RCN members painted a picture in which the majority of foundation trust boards conduct their business in private and in which nurse directors appear to be remote figures to many of their nursing staff.

We asked our members how many board meetings were regularly held in private:

- nearly half of nurses (49 per cent) told us that all or most board meetings were held in private.

We also asked whether the decisions and priorities reached at board meetings were publicised and communicated back to members and staff:

- less that half of respondents (46 per cent) agreed this was the case.

'Ward to Board'
The nurse/midwife director on the board must carry out both a strategic and an operational function. They should, as the recent Commission on the Future of Nursing and Midwifery recommends, be champions of quality care at board level[16].

We asked members whether they knew who the nurse/midwife director on their board is:

- a significant minority (39 per cent) of nurses did not

We also asked whether our members had regular opportunities to meet with the nurse/midwife director:

- three quarters (77 per cent) of nurses told us they did not.

Use of new autonomy

Foundation trusts are able to utilise greater financial freedoms in order to borrow money and use surplus funds to invest in improved patient services. However, our results show that RCN members on the wards are not seeing evidence of new financial freedoms in action, or improvements in care.

We asked nurses if they had seen improvements in the quality of care since their trust attained foundation trust status:

- 42 per cent of nurses felt they hadn't seen improvements.

We also asked whether they were aware of their trust making greater use of private finance to fund patient service:

- the majority of nurses simply weren't sure (48 per cent). Around a third (31 per cent) strongly disagreed that this was the case.

Conclusion

The NHS Constitution enshrines the principle that 'the NHS belongs to the people'[17]. The message from RCN's 2007 foundation trust survey was that RCN members saw local control of foundation trusts, 'with full engagement of community and staff constituencies in the governance, [as] one of the greatest benefits of achieving foundation trust status'[18]. Three years later, our members have painted a picture of a model which is not living up to this vision.

Leadership and management culture were identified in 2007 as being key to success. In 2010, the message remains the same. The board and governors in every foundation trust have a mandate and a duty to support an active membership and to operate transparently. This will help to build a trust which is both responsive to local needs and demands and answerable to members and communities.

With the results of this survey, nurses have described an NHS provider model which is not living up to the vision set out by government. The NHS is facing a future in which the drive for continued improvement in quality is coupled with an unprecedented demand for efficiency savings. Nurses have a crucial role to play in delivering the innovation required, but their potential is not being harnessed.

There has been a groundswell of interest in 'mutual' or 'employee partnership' models as models of delivery for public services, including health care. Mutualism raises the possibility of nurses and patients having a direct input into the running of hospitals.

Foundation trusts have been put forward as an example of the mutual model of public service delivery. However, the issues raised by this survey would suggest that the current governance practices of many foundation trusts are not a meaningful model for future mutual organisations.

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[17] Department of Health (2009) *The NHS Constitution for England*
[18] http://www.rcn.org.uk/__data/assets/pdf_file/0010/248833/NHS_Foundation_Trusts_Survey_2008.pdf

Key recommendations

- Foundation trusts need to improve staff membership and engagement strategies. Simply opting staff in to membership is not enough.

- Governors in foundation trusts need to be independent and have the skills to both challenge and support the work of the board of directors.

- The RCN accepts that there may be some need for parts of board of director meetings to take place in private. However, we believe that the majority of business could and should be discussed in an environment in which members are not consistently excluded.

- Nurse/midwife directors on the board should be championing quality throughout the trust. RCN supports the principle that there should be no more than two levels between sisters and charge nurses on the ward and the director of nursing. This will help to ensure a 'ward to board' culture in the management of the trust, in which openness, quality and patient safety are prioritised.

Appendix one: the survey questions

Question / statement	Response options
Which NHS region do you work in?	NHS London NHS East Midlands NHS East of England NHS North East NHS North West NHS South Central NHS South East Coast NHS South West NHS West Midlands NHS Yorkshire and the Humber
Please indicate what Agenda for Change band you are on	Band 3 Band 4 Band 5 Band 6 Band 7 Band 8a Band 8b Band 8c
Do you work in an NHS Foundation Trust?	**Yes / no**:

Working for the public and patients	
I voted in the last governor elections for my trust	**Yes / no**
I know who the nurse/midwife director on the trust board is	**Yes / no**
I have regular opportunities to meet with and talk to the nurse/midwife director about the experience of delivering care in my trust	**Yes / No**

Since becoming a foundation trust I have noticed improvements in communication from the executive team	**Likert scale indicated by radio button** 1. Strongly agree 2. Agree 3. Not sure 4. Disagree 5. Strongly disagree
The decisions and priorities reached at board meetings are well publicised and communicated back to staff and members	**Likert scale indicated by radio button** (as above)
I believe being a member of my local foundation trust makes a difference to how things are run here	**Likert scale indicate by radio button** (as above)
There are regular and clear mechanisms for members to give feedback through processes such as surveys, facilitated events and patient interviews	**Likert scale indicate by radio button** (as above)
Patient and public complaints are taken seriously by the trust and acted upon though changes in policy and practice	**Likert scale indicate by radio button** (as above)
In your trust how many of the board meetings are regularly held in private where members of the public are not allowed to attend?	1. All board meetings are held in private 2. The majority of board meetings are held in private 3. About half of board meetings are held in private 4. A minority of board meetings are held in private 5. No board meetings are held in private
The trust supports my ability to work with colleagues from other organisations, e.g. social services departments and other NHS bodies	**Likert scale indicate by radio button** (as above)
Since becoming a foundation trust I have noticed improvements in community involvement in decision making and the shaping of services	**Likert scale indicate by radio button** (as above)

Since becoming a foundation trust I have noticed that the trust has made greater use of private finance to improve patient services	**Likert scale indicate by radio button** (as above)

Investing in Staff	
Staffing levels in my team are appropriate for providing the right levels of care for patients	**Likert scale indicate by radio button** (as above)
The skill mix in my team is appropriate for providing the right levels of care for patients	**Likert scale indicate by radio button** (as above)
The trust has frozen all vacancies because of financial pressures	**Yes / No**
My manager and I worked together to agree an annual appraisal plan for my learning and development needs	**Yes / No**
My manager makes sure there is time for me to take up opportunities for learning and development	**Likert scale indicate by radio button** (as above)
I am aware that budget constraints have led to a reduction in staff in my team / ward / trust in the last year *Please provide examples where possible*	**Likert scale indicate by radio button** (as above) **Free text box**
Since becoming a foundation trust I have noticed improvements in staff morale	**Likert scale indicate by radio button** (as above)

Working to deliver high quality care	
I believe and can see evidence that delivering the best care to patients is the trust's top priority	**Likert scale indicate by radio button** (as above)
My team is supported and inspired to deliver the highest standard of care possible by our management	**Likert scale indicate by radio button**

	(as above)
There are clear mechanisms for me to share examples of good practice and ideas for innovation with the wider trust	**Likert scale indicate by radio button** (as above)
I have the time to treat all my patients as individuals	**Likert scale indicate by radio button** (as above)
I have the time to discuss and agree treatment plans with patients	**Likert scale indicate by radio button** (as above)
I know where to get the resources and information I need to support high quality patient care quickly and easily	**Likert scale indicate by radio button** (as above)
My clinical environment facilitates the delivery of dignified personal care to my patients	**Likert scale indicate by radio button** (as above)
I have had concerns over patient safety in the last year	**Yes / No**
The trust has visibly and promptly acted on concerns raised about patient safety and seeks to learn from concerns	**Likert scale indicate by radio button** (as above)
I am aware of budget constraints compromising patient services and/or care in the last year. *Please provide examples where possible*	**Yes / no** **Free text**
I have witnessed unsafe practice as a result of over stretched staffing or services in the last year. *Please provide examples where possible*	**Yes / no** **Free text**
Since becoming a foundation trust I have noticed improvements in the quality of care delivered to patients	**Likert scale indicate by radio button** (as above)

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Appendix two: detailed results

Question/Statement	Yes	No	Total Respondents
I voted in the last governor elections for my trust	25.8%	74.2%	391
I know who the nurse/midwife director on the trust board is	61.5%	38.5%	390
I have regular opportunities to meet with and talk to the nurse/midwife director about the experience of delivering care in my trust	23.3%	76.7%	391

Question/statement	
In your trust how many of the board meetings are regularly held in private where members of the public are not allowed to attend	
All board meetings are held in private	15.8%
The majority of board meetings are held in private	33.2%
About half of board meetings are held in private	20.1%
A minority of board meetings are held in private	20.5%
No board meetings are held in private	10.4%
Total respondents	259

Question/Statement	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree	Total Respondents
Since becoming a foundation trust I have noticed improvements in communication from the executive team	5.4%	31.6%	23.1%	31.4%	8.5%	389
The decisions and priorities reached at board meetings are well publicised and communicated back to staff and members	6.9%	39.1%	20.5%	24.8%	8.7%	391
I believe being a member of my local foundation trust makes a difference to how things are run here	2.6%	22.9%	27.6%	29.9%	17%	388
There are regular and clear mechanisms for members to give feedback through processes such as surveys, facilitated events and patient interviews	5.9%	36.6%	24%	25.3%	8.2%	391
Since becoming a foundation trust I have noticed improvements in community involvement and decision making and the shaping of services	4.9%	22.4%	40.9%	25.2%	6.7%	389
Since becoming a foundation trust I have noticed that the trust has made greater use of private finance to improve patient services	6.2%	14.7%	47.8%	24.2%	7.2%	389

Since becoming a foundation trust I have noticed improvements in staff morale	1.5%	9.5%	22.5%	39.6%	26.9%	391
Since becoming a foundation trust I have noticed improvements in the quality of care delivered to patients	4.6%	19.6%	33.5%	32.7%	9.5%	388