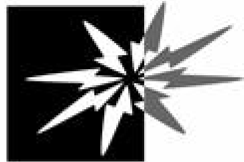

NOTICE OF MEETING

Scrutiny Review – Whittington Hospital Application for Foundation Trust Status

THURSDAY, 4TH OCTOBER, 2007 at 19:00 HRS - CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

MEMBERS: Councillors Bull (Chair), Egan, Newton and Winskill

AGENDA

1. APOLOGIES FOR ABSENCE

2. URGENT BUSINESS

The Chair will consider the admission of any late items of urgent business. Late items will be considered under the agenda items where they appear. New items will be dealt with at item 9 below.

3. DECLARATIONS OF INTEREST

A Member with personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonable regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

4. MINUTES OF THE PREVIOUS MEETING (11/9/07) (PAGES 1 - 6)

To approve the minutes of the meeting held on September 11th 2007.

5. TO RECEIVE WRITTEN EVIDENCE (PAGES 7 - 12)

To receive written reports from:

- Haringey PCT response to Whittington Hospital Foundation Trust application (to follow)
- Whittington Hospital NHS Trust – Foundation Trust Consultation Strategy (attached)
- Whittington Hospital PPI Forum (to follow)

6. FEEDBACK FROM PANEL VISIT

To report back from the Panel visit to the Whittington Hospital from October 1st 2007.

7. EVIDENCE FROM INDEPENDENT ADVISER

To hear evidence from Joy Tweed.

8. REVIEW FINDINGS AND RECOMMENDATIONS (PAGES 13 - 24)

An issues paper is attached for Panel discussion.

9. NEW ITEMS OF URGENT BUSINESS

10. REVIEW EVALUATION

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MINUTES OF THE SCRUTINY REVIEW - WHITTINGTON HOSPITAL/APPLICATION FOR FOUNDATION TRUST STATUS
TUESDAY, 11 SEPTEMBER 2007

Councillors Bull (Chair), Egan, Newton and Winskill

LC1. APOLOGIES FOR ABSENCE

Whittington Hospital Patient and Public Involvement Forum

LC2. URGENT BUSINESS

None.

LC3. DECLARATIONS OF INTEREST

None.

LC4. TERMS OF REFERENCE

A number of initial observations were made by the Panel:

- There was concern at the number of consultations being undertaken locally and the impact that this may have on local health services and their patients. In addition to the Whittington Foundation Trust application, it was reported that consultations were also being undertaken by Haringey PCT (Primary Care Strategy) and Barnet, Enfield and Haringey (Clinical Strategy). Impending consultations were also noted to include the London NHS Strategy (Framework for Action) and further Foundation Trust status applications from Barnet, Enfield & Haringey Mental Health Trust and North Middlesex Hospital.
- The Panel noted that equalities issues were very important in the Whittington Hospital's application for Foundation Trust (FT) status, especially how this may impact on other local health services and the people that use them.
- The Panel were keen to understand what impact the review of London NHS services (Framework for Action) would have on health services provided at the Whittington. In particular, Panel Members required further clarification on what were the implications of the independent status of Whittington Hospital Foundation Trust and its involvement in the London review consultation (i.e. what role would the Whittington have in the review process once being independent of NHS control?).
- In this scrutiny review the Panel would be seeking to assess why the Whittington has applied for FT status, how the Whittington would use new freedoms allowed under Foundation Trust status, the impact Foundation Trust status will have upon Haringey services and the people that use them and consider the adequacy of planned consultation process by the Whittington.

Agreed: The Panel agreed that the aims and terms of reference as set out in the documentation be approved.

LC5. EVIDENCE FROM WHITTINGTON HOSPITAL NHS TRUST

Susan Sorensen, Director of Strategy & Performance and Deputy Chief Executive and Siobhan Harrington Director of Primary Care presented an overview of the Whittington's Hospital application for Foundation Trust status and responded to Panel questions. A summary of the discussions that subsequently took place is provided below:

Background to application

- The Whittington was told it could apply for FT status in the 2006/7 business planning cycle having met the required standards. The Whittington Hospital will therefore be part of the 7th wave of applications for FT status. The decision to seek FT status was unanimous among current Whittington Board.
- The acute sector must continually 'horizon scan' to ensure that business plans recognise and respond to anticipated events. In this context, the Whittington had been required to make some tentative assumptions about the outcome of the London review of NHS services.
- It was emphasised that this was a genuine application which would be thoroughly assessed by the scrutinising body (Monitor). It was noted that not all NHS trusts had been successful in their applications for FT status, indeed, some had been deferred for further developmental work before they can resubmit their application.

Local Health Economy

- The Whittington Hospital indicated that it was aware of the issues that may arise with many local health agencies in transformation at the same time. It was reported that there is ongoing dialogue with both Haringey PCT and NHS London to ensure that local and regional developments are planned coherently and that services do not fragment.
- The Whittington indicated that it was committed to maintaining a strong network of local health care provision. Even though the Whittington will be independent of NHS control once acquiring FT status, it will retain a strong interest in maintaining clinical networks which naturally extend over many acute sector sites (such as the North Middlesex Hospital). Similarly, under the London NHS review (Darzi), emphasis will be on developing effective care pathways which will maintain links between acute sector sites.
- It was pointed out that the Whittington was particularly keen to maintain links with the primary care sector, hence the development of the innovative post of Director of Primary Care at the hospital. This role will help the Whittington to maintain an awareness of community developments and provide a focus for ongoing consultation processes between the two sectors.
- The Whittington sought to reassure the Panel about private sector provision from the site under FT status. It was indicated that there would be no benefit from incorporating private sector health care provision (i.e. treatment centre) within the hospital business model, as the FT would have a much tighter business case for all services provided in the future.

London NHS Reconfiguration

- Concerns were raised about the future of the Whittington Hospital in the context of the review of NHS services in London. There was a general indication that

Primary Care Trusts (as commissioners of services) would lead the way in shaping the nature and level of acute sector provision across London (subject to Darzi model and principles). Thus, it would be local PCTs which would ultimately shape the nature of services provided through the Whittington and other acute sector hospitals.

- The impact of the Whittington acquiring FT status upon the wider health economy was a concern to Panel Members. New financial freedoms together with greater autonomy to determine governance arrangements may confer a competitive advantage to the Whittington Hospital FT over other acute trusts in the area (i.e. The North Middlesex Hospital). There was some anxiety as to what implications this may have for 1) the availability of services across both sites 2) patients ability to choose services.

Governance & Accountability

- Although FT's are independent of NHS control, public accountability will be maintained through reporting and monitoring processes established with Monitor: a government agency that specifically regulates FT's. Monitor has already established a quarterly inspection and assessment processes with the Whittington in the lead up to their formal application and these will continue if FT status is attained.

- The Board of Directors will have responsibility for day to day running of the Hospital. The board will consist of 12 Directors (6 Executive and 6 Non Executive) and the Chair. 29 representatives will make up the Members Council which will include, patient, public and staff representatives and other local stakeholder organisations (i.e. PCTs, LA's). The Members Council would have powers to appoint the Chairman and Non Executive Directors to the Board.

- The value of public accountability through the role of the Members Council was questioned by the Panel. The Panel were concerned that the ability of the Members Council to guide and influence decisions taken by the Board of Directors may be limited, given that it will not have an indicative budget and will have limited opportunities to meet with the Board. It was also noted that that the only direct link between the Members Council and the Board of Directors was the Chairman (who presides over both).

- Further clarification was sought as to the accountability of the Chairman's role within new governance arrangements at the Whittington, particularly in their duty as Chair of both the Board of Directors and the Members Council. Whilst it was noted that this role may provide a link between the two management bodies of the FT, there was a concern that this placed considerable singular authority within the role of the Chairman.

- Panel Members indicated that further work needed to be undertaken to explain the nature of the relationship between the Board of Directors and the Membership Council. If FT status was to represent greater patient and public accountability, further involvement of the Membership Council in decision making processes was needed.

- Further details as to how Executive Directors will be identified, appointed and remunerated within the new Foundation Trust was also sought.

Finance

- New financial freedoms will be one of the key benefits of Whittington gaining FT status. With FT status, the Whittington will be able to access new sources of financial support and do so more efficiently than under current NHS financial processes. This may enable the Whittington to respond to patients needs more quickly as there is 'less bureaucracy' in planning and developing new services.
- Each Foundation Trust is subject to rigorous financial planning and monitoring standards set by Monitor. Each FT is allocated a financial borrowing limit based on the assessed accounts. Whilst borrowing can be from private or public sources, the FT cannot breach these total borrowing limits.
- The Panel discussed what the implications would be of FT that failed (either financially or through poor governance). Recent evidence would seem to suggest that in such circumstances, a FT would be taken over or forced to merge with a more successful FT.
- With the maintenance of the Payment By Results (PBR) system, where acute sector providers are remunerated at the same rate for hospital services, there is no incentive for cost cutting between competing acute sector hospitals.
- If a financial surplus is recorded by a FT at the end of the accounting year this money is not subject to any external controls. A financial surplus cannot therefore be reclaimed by wider NHS bodies. Financial surpluses can be retained by the FT for future investment or redirected to service areas at the discretion of the FT Board.
- It was recorded that the intention of the Whittington was to plan for an operating surplus at the end of the first financial year as a FT. This would be in line with surpluses recorded at other FT's.

Staff

- Then Whittington will have greater flexibility and autonomy to vary staff employment and conditions within FT status. The Whittington indicated that it had no plans to vary conditions from national pay agreements. The Whittington have undertaken consultations with Staff Side (Trade Union) representatives in the furtherance of their FT application..

Standards & Monitoring

- Even though Foundation Trusts are independent of NHS control, the Hospital will still be subject to service standard inspections as carried out by the Healthcare Commission. The Whittington will also still be subject to core standards as set out for other acute trusts. Current arrangements for recording and publishing of standards data will be maintained.

Consultation

- The Whittington has undertaken a wide ranging programme of consultation events and meetings with staff, patients, public and other services in the locality. The local Public and Patient Involvement Forum have also been kept informed of developments as the hospital's application for FT status has progressed.

It was noted that the Whittington Hospital has an Open Day on the 26th September from 14.00–18.00.

A copy of the presentation that was made to the Panel is attached for information.

LC6. EVIDENCE FROM INDEPENDENT ADVISER

Joy Tweed, is a member of the Health Scrutiny Support Programme (at the Centre for Public Scrutiny) and an Associate Lecturer at University of Westminster. A brief summary of the main points that were discussed with the Panel are summarised below:

- To date 73 NHS Trusts have acquired FT status. Although the stated policy of ensuring that all acute sector NHS trusts become FT's is still in place, it is unlikely that this will be achieved by the target date of 2008.
- The Governor role will be critical in the new governance arrangements for the FT, particularly in developing links with different stakeholder groups. As Governors may be from a wide range of lay communities, there will need to be an explicit commitment to train and develop those elected to Governor Role to ensure that they can fulfil these duties effectively.
- Further information is required as to how the Whittington planned to develop the Membership of the FT. In particular, details of how patients and members of the public are to be engaged and recruited into the Membership. This was important as this is the mechanism for ensuring that local people are adequately represented in the Membership and subsequent election to the Council.
- The Darzi review (of London NHS services) will have important implications for FT's and the wider acute sector, especially as to how new commissioning arrangements will work (practice based commissioning). It was noted that there is a t need to develop such commissioning capacity.
- With the creation of FT's, it has been inevitable local disputes have arisen between commissioners and providers concerning variations in the nature and level services provided. With the right of appeal to the Secretary of State no longer available, Monitor has assumed this regulatory role. It was noted however, that Monitor appeared unwilling to get involved in such local disputes, instead recommending local dialogue as a solution.

- The Panel indicated that it would like to learn more about the experiences of other FT's, particularly in relation to 1) governance issues - the work of the Membership Council and relationship with the Board 2) financial position – costs of recruiting Membership and maintaining Membership Council 3) benefits that have been derived from new freedoms conferred through FT status. The Panel asked the independent adviser if some further information could be obtained from 2 or 3 FT's in relation to these areas.

Agreed: Independent adviser to obtain information from other FT's in respect of governance, benefits of new freedoms and finances.

- The Panel indicated that a visit to the Whittington Hospital would be helpful to guide and inform decision making.

Agreed: Panel visit to Whittington Hospital be arranged before the next meeting (4th October).

LC7. EVIDENCE FROM WHITTINGTON HOSPITAL PATIENT & PUBLIC INVOLVEMENT FORUM

A representative from the Whittington Hospital PPI Forum was not able to attend. This Forum is meeting on the 18th September to develop a written response to Whittington Hospital consultation, which the Review Panel will also receive.

Agreed: Whittington PPI Forum be invited to attend the next meeting (4th October, 7.00 p.m.

LC8. NEW ITEMS OF URGENT BUSINESS

None.

LC9. DATE OF NEXT MEETING

Agreed: Thursday 4th October 7.00pm Haringey Civic Centre (Committee Room 1)

Cllr Gideon Bull

Chair

Foundation Trust Application

Consultation Strategy and Programme

As part of the work to prepare our application for Foundation Trust (FT) status, we are undertaking an extensive programme of consultation with patients, staff stakeholders and the wider public.

The consultation dates are set by the Department of Health, commencing on 9th July 2007 and running for a period of 12 weeks concluding on the 29th September 2007.

Alongside the consultation activity, the Trust is securing expressions of interest from individuals, patients, staff and public who wish to become members of the foundation trust and who will make up the membership of patient, staff and public constituencies.

The FT consultation programme will deliver the following priorities: awareness, engagement, response and membership. This approach is summarised below:

- Awareness: First, to raise public awareness using a broad range of print and electronic media, to make stakeholders aware that the Trust has been invited to apply to become a foundation trust and to set out its long-term vision and FT governance proposals

- Engagement: build on the growing level of awareness by engaging a variety of stakeholders in various settings, inside and outside the hospital, to invite staff, patients and the public to consider the issues around the Whittington becoming a foundation trust

- Response: an opportunity for patients, staff public and stakeholders to offer their views through a variety of opportunities both face to face, through the consultation forms or via the internet

- Membership: A key element of the public consultation is to bring individual members of the public to the required state of awareness and engagement that part of their response to the consultation will be to apply to become an individual member

Consultation document

A consultation document has been published and includes all the elements required by Monitor. The document is a 40-page pocket size booklet, which includes healthcare vignettes and careful graphic design. 3,000 copies have been published. The document includes details of the governance arrangements and directs readers to sources of further information on how to feed back views and apply for membership.

For our visually impaired community large print copies are available on request. For people who cannot read English, other language copies of the document are made available on request.

We have commissioned the production of a short film to summarise the consultation document against the background of images of the hospital, staff, patients and the local community. The film is also on the hospital website, and is available on request and played throughout the hospital on TV DVD's.

The film demonstrates how the Trust has improved in recent years and describes the excellent services hospital delivers. The second half explains what the Trust will be doing in order to improve further and explains the benefits of becoming an FT. The film also gives contact details and directs the public to information on how they can become members.

There is a distilled version of the consultation document published as an A6 sized leaflet in two versions – one for staff and one for public and patients.
2,500 leaflets have been printed for staff
20,000 leaflets were initially printed for public and patients

Both leaflets have a tear off application form so that people can apply to become members.

A second print run of 100,000 A6 sized leaflets for patients and the public has been produced to continue to promote awareness, engagement and membership recruitment beyond the consultation period.

Communications strategy

The consultation document has been distributed to the following partner and stakeholder organisations. All in all, over 400 organisations have been contacted.

Islington PCT	LB Islington
Haringey Teaching PCT	LB Haringey
Camden PCT	Mental Health Trust
Barnet PCT	HMPs
Enfield PCT	PPIF
City & Hackney Teaching PCT	Voluntary groups
GP Practices	Places of worship
Schools and colleges	MPs

Copies of the document are available via the FT project office communications team so that patients, public, staff and others can request a copy of the full document. It will also appear in PDF format on the hospital website.

We believe the best method of delivering information and recruiting members is face-to-face communication. To this effect we have developed a standard presentation, which is derived from the consultation document.

We have attended events such as PPIF business and public meetings, further education colleges, pensioner associations, local authority meetings including neighbourhood forums, to present the consultation document, answer questions and recruit members. We have attended a meeting of the LB Haringey Overview and Scrutiny Committee and are booked to attend the LB Islington OSC.

Additionally we have attended local summer events where we will either have stalls or 'walk the crowd'. Some of the events, which fall within the consultation period, are:

- Fin Fest (Finsbury Park)
- The Fleagh
- The Whittington charity cricket match
- Muswell Hill Festival

The target is to recruit 2,000 members by 1 November, when the application is submitted to the Department of Health. If the Secretary of State recommends that the application should proceed to Monitor, it is planned that a further 3,000 to 4,000 members will be recruited by 1st January 2008.

Staff Ambassador Scheme

There are three groups of staff who have been trained to undertake the face-to-face contact with patients and the public

- Two members of staff have been appointed on temporary contracts specifically to assist with the foundation trust project including membership recruitment and database management.
- Clinical staff managing wards and departments are supervising direct contact with patients.
- Staff living within the catchment of the public consultation have been invited to recruit within their networks outside contracted working time under an incentive scheme.

To target our patients:
Leaflets are being distributed throughout the wards, outpatient departments, emergency department, therapies services, PALS and community rehab groups.

To target local GPs
We attended PbC groups in September to present to them the Whittington's plans for FT application and to give them the opportunity to ask questions and become members. We have also attended Whittington arranged GP postgraduate education sessions organised for July and September.

To target our staff:
The staff consultation leaflet has been delivered to all staff attached to their July pay slip.

There have been presentations to the medical committee and the JCC and on the audit half days. The CEO briefings in July and September were open staff meetings held twice on each day at 11.00 and 16.00 to reach staff that may work different shift

patterns. Meetings especially targeted at staff that work predominantly night duty and our community-based staff have been arranged.

The FT project office is running open office days where staff can pop in to discuss FT application and have the opportunity to ask questions and be recruited as members.

To target our public:
Leaflets have been distributed to GP surgeries, chemists, dentist surgeries, community centres, places of worship, nurseries, health centres, nursing homes, sixth form and further education colleges and local associations such as disability groups, pensions forums, residents groups, charities for the homeless, leaders of ethnic minority community groups, gyms and leisure centres.

We have placed advertorials in the following newspapers in both July and September 2007:

Ham & High: Express & Broadway, Wood & Vale and Marylebone
Hornsey Journal
Muswell Hill Journal
Islington Gazette
Camden Gazette
Camden New Journal
Islington Tribune

These papers have a combined readership of approximately 245,000.

To access ethnic minorities we have analysed nationalities served by our interpreting services. The average months interpreting figures are:

Turkish	189
Somali	99
French	9
Spanish	8
Bengali	8
Polish	1

Based on this we translated the advertorial and placed it in a local Turkish newspaper with a readership of 40,000

All advertorials have contact details or explanation on how to become a member.

Additionally we are looking to find ways of accessing other ethnic minority groups through community leaders and our advocacy service to inform, consult and recruit.

The public consultation culminates in the Community Open Day on Wednesday 26th September when many departments will set out their stalls. There will tours of the hospital, including backroom areas such as the kitchens, and short talks on a number of topics of interest. The trust's annual public meeting will be held at 5.30p.m.

The FT project team has carried out an Equality Impact Assessment of the Consultation and Membership strategy. The initial screening did not indicate any

material weaknesses in the trust's approach but identified a few areas of improvement which have been actioned. When those who have the current expressed an interest in joining are contacted to formally apply for membership, there will be further information sought in order to establish the impact of the process on the six equality factors: race, disability, gender, age, sexual orientation, religion/belief.

Next steps

Following the completion of the consultation period a report will be developed which reflects on the consultation approach, the actual activities undertaken, the responses received, and the Trust's reply outlining any changes to be made as a result of the consultation.

Foundation Trust Office
October 2007

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Scrutiny Review – Whittington Hospital Application for Foundation Trust Status
Issues Paper for Consideration by the Panel

1. Introduction

Review Panel

1.1 The review panel consists of 4 Members and is due to meet twice (September 11th and October 4th).

1.2 The terms of reference for the review were agreed as: “to consider and comment as appropriate on the proposed application for foundation status by the Whittington Hospital NHS Trust and, in particular, its overall strategy and governance arrangements”. In its deliberations the panel has sought to focus on 4 key objectives:

- The process of application (consultation)
- Accountability issues raised
- Impact on partnerships and the local health economy
- Impact on local people

1.3 The review panel has heard evidence from the Whittington Hospital and is due to receive written evidence from Haringey PCT and the Whittington Hospital Patient and Public Involvement Forum. In its deliberations, the panel has been assisted by the services of an independent external adviser, Ms Joy Tweed.

1.4 It is intended to produce a short review report of the evidence received and recommendations made by the panel. This review will be submitted in to the formal consultation for the Whittington Hospitals application for Foundation Trust status.

2. Process

2.1 The consultation period for Foundation Trust status runs from July 9th through to 29th September 2007, which conforms to the statutory 12 week consultation period requirement.

2.2 The Whittington has developed a consultation strategy which sets out how the Whittington Hospital intends to engage, inform and canvass responses to Foundation Trust proposals from the public, patients, staff and other local stakeholders (e.g. Local Authorities and Primary Care Trusts). Key elements of this strategy include:

- Production and distribution of the consultation document
- Advertisements in local press (including Turkish press)
- A commissioned film (shown at presentations and available on the website)
- Presentations and feedback sessions in the community, with staff and with local stakeholders
- Public Open Day (26th September 2007)

2.3 The consultation document contains health vignettes, details the new governance arrangements for the Foundation Trust, sets out a number of consultation questions and provides an opportunity to feedback responses. Approximately 3,000 copies of the main consultation document have been produced. The consultation document is available in large print and a number of community languages. Opportunities to feedback on the consultation have been provided through additional abbreviated literature and through the Trusts website.

2.4 The Whittington Hospital has consulted Overview and Scrutiny Committees in both Islington and Haringey and has contributed to a review being undertaken at the latter.. The Whittington has made a formal presentation to the scrutiny review panel in Haringey and responded to Member questions.

2.5 The Whittington has conducted an Equalities Impact Assessment of the Consultation and Membership strategy which did not show any 'material weaknesses'. A further equalities assessment will be undertaken within the Membership at the end of October to assess ongoing impact of recruitment strategies.

2.6 The application for Foundation Trust status will first be submitted to the Secretary of State on November 1st 2007. If this is cleared, the application will proceed to the Foundation Trust regulator (Monitor) on January 1st 2008.

Suggested issues for consideration by the Panel:
- **How will the Whittington Hospital address concerns raised within the consultation?**
- **How will comments and feedback obtained from the consultation be fed back to those that participated and to the wider community?**

3. Accountability

Governance Structure

3.1 There are three tiers of governance to new Foundation Trusts:
- A broad based **Membership** which is made up of patients, staff and members of the public.
- A **Board of Governors** which is a predominantly elected body drawn from constituencies of the Membership (patients, public and staff) and nominated partner agencies (e.g. Primary Care Trusts & Local Authorities).
- A **Board of Directors** made up executive directors and non executive directors, the chairman and chief executive.

Membership

3.2 It is predicted that total Membership within the Foundation Trust sector will be 840,000 by end of 2007/8. Total Membership for each Foundation Trust would appear to vary, depending on the size of the Hospital Trust, the nature of services provided (i.e. specialist care or general) and the model of

Membership used (i.e. opt-in or opt-out). Thus while the University of Birmingham Hospitals Foundation Trust, which has an opt-out model of Membership, has over 90,000 members, the Royal Marsden, a specialised cancer hospital, has fewer than 5,000 members (Monitor, 2007).

3.3 There is considerable debate about satisfactory and appropriate levels of Membership and indeed, what size of Membership constitutes a democratic or representative body. Some Foundation Trusts have ‘opt-in’ models of Membership (patients have to agree to be a Member) whilst others have ‘opt-out’ models (where all patients automatically become Members). Opt-in models of Membership, which the Whittington proposes, are associated with more active members (and vice versa). The Whittington also proposes to allow all residents of Haringey and Islington to become Members and wishes to consult if this should be opened up further to residents in part of Barnet, Hackney and Camden.

3.4 There is evidence to suggest that the Membership can be a significant resource to Foundation Trusts in that it can provide data and intelligence about the accessibility and quality of services provided. Foundation Trust membership has also been associated with significant increases in attendance a Trust public meetings. It is therefore important to ensure that the Membership is active and has sufficient opportunity to engage with governors and positively contribute to the development of services.

3.5 The operation of a Foundation Trust Membership does not constitute a public and patient involvement strategy in itself as there is some evidence to suggest that Foundation Trusts have failed to reach traditionally under represented communities through their Membership (Healthcare Commission, 2005). Additional direct patient contact strategies such as surveys and consultations should further inform patient and public involvement within the Foundation Trust.

3.6 The costs associated with developing and maintaining the Foundation Trust Membership (recruitment, communication and elections) may be extensive. At the review meeting, panel Members felt that such costs should be explicit and transparent and should not impact on the provision of services for patients.

3.7 The Whittington intends to have recruited 2,000 members by November 1st 2007 (upon submission to the Secretary of State) and 4,000 by January 1st 2008 (upon submission to Monitor).

Issues for consideration by the Panel:

- **How will the Whittington ensure that Membership is representative of the local community?**
- **How will the Whittington support Member engagement, particularly from those communities which may be hard to reach?**
- **Will the Whittington develop a public and patient involvement strategy?**
- **What costs are associated with Membership recruitment?**

Governors

3.8 The Board of Governors is made up of patient, public and staff governors (who are elected from their respective Membership constituencies) and nominated governors (from local partner agencies). The actual size and composition is at the discretion of local Foundation Trusts, though whatever size the Board of Governors is decided upon, public governors (patients and public) must be have a majority on the Board.

3.9 Cursory analysis of the composition of Board of Governors at other Foundation Trusts indicate a membership ranging in size from 21 to 48. Public governors are generally elected from the Membership resident within specific geographic localities. The number of staff governors ranged from 4 (statutory minimum) to 13. Nominated governors (from partner agencies) ranged from 5 to 13. This same analysis also indicated that few Foundation Trusts have dedicated Patient Governors.

3.10 Audits of Foundation Trusts, have raised concerns about how representative Boards of Governors are to their communities given that in some instances over 60% are made up from retired populations (Day & Klein,2005) and that over 1/3 of public and patient governors are NHS staff, ex NHS staff or had family associations within the NHS (Day & Klein,2005).

3.11 Analysis of public constituency ballots demonstrate that small numbers of people are electing governors: in one UCL area 125 people voted (from a membership of 229, to elect 3 governors. Elections will be held every three years by postal ballot. Average turnout at Foundation Trust elections of Governors is 36%, though this average varies by the type of constituency: public 53%, patient 27% and staff 26% (Lewis, 2005)

3.12 The Whittington Hospital is proposing 29 Governors; 19 to be elected (5 from patient membership, 10 from public membership and 4 from staff membership) and 10 appointed (PCTs, Practice Based Commissioners, Local Authorities, Universities).

3.13 The Board of Governors have a number of formal powers which are:

- To appoint/ remove Chair and Non Executive Directors,
- Approve the appointment of Chief Executive,
- Agree remuneration,
- Appoint / remove auditors,
- Receive annual report & accounts and advise
- To be consulted on strategic developments.

3.14 Governors provide the critical link between the Membership and the Foundation Trust. This link provides the route through which the community is engaged & involved and established a line of accountability between the Foundation Trust and the wider public. Survey data among governors however, has found that governors communication with Membership constituencies was poor, indicating that there are problems around defining

their constituents, lack of training in engagement and inadequate resources. As such, just 32% of governors reported that they had effective channels to communicate with their constituent membership (Lewis, 2005).

3.15 Whilst there is national guidance that Governors should adopt one of three roles (advisory, guardianship or strategic), in practice, much confusion has arisen as to the exact nature of their role. A number of reports have indicated that Governors experience a high degree of initial uncertainty as to their role and responsibilities (Lewis, 2005; Chester, 2005).

3.16 The need to provide a systematic and ongoing programme of training for Governors has been highlighted to provide support and help develop their role (Healthcare Commission, 2005; Day & Klein, 2005; Chester, 2005). Priority areas in which training was needed included: developing an understanding of the governor role, help in setting work objectives and strategies for engaging and communicating with the public and other constituencies (Chester, 2005).

3.17 There is consistent evidence to suggest that Governors need more resources in order to fulfil their roles and responsibilities, particularly in communicating with their constituents (Chester, 2005, Lewis, 2005, Day & Klein, 2005).

3.18 The number of meetings of Board of Governors that take place would appear to be important, not only for democratic accountability, but also in helping to shape and define the roles of Governors (particularly in its early formation). A study at the Homerton Hospital Foundation Trust indicated that Governors felt that 6 meetings per year were insufficient to help understand their role and develop a programme of work relating to this (Lewis, 205). Proposals from the Whittington indicate that the Board of Governors will meet 3 to 4 times a year.

3.19 Survey data among Governors suggests that there is future optimism for the role and effectiveness of the Board of Governors (given time and experience in role). National survey data has indicated that Governors believe that 70% of governors will become more effective in the future (Chester, 2005). The downside of Governors developing experience and a grater ability to contribute, is that the propensity for 'informal co-option' also increases. This may have implications for conflict of interest to arise in respect of accountability and representation of Governors.

- **Will Governors be representative of the local community?**
- **Will the composition of the Board of Governors reflect the diversity of the local community?**
- **What training will be available for Governors to help them fulfil their role and obligations?**
- **Will there be an indicative budget for the Board of Governors?**

Directors

3.20 The Board of Directors is made of Executive (appointed) and Non Executive Directors, the Chief Executive and the Chairman. The responsibilities of the Board of Directors within the proposals for the Whittington Foundation Trust include:

- Day to day (operational) management
- Service performance
- Financial planning and performance
- Overseeing long term (strategic) planning

3.21 The Non executive director role has become of increasing importance to ensure that Foundation Trusts have the necessary skills and expertise to help manage and direct such a complex organisation. In Foundation Trusts, Directors have reported that there is now more local control over appointments has been found to beneficial in helping to select the right skill base for their executive needs.

3.22 Foundation Trusts Boards are required to self certificate their projected performance in relation to finance, governance and mandatory provision of goods and services. Monitor has indicated its concern at the level of over optimistic expectations and inaccurate predictions within the sector, given the number of Foundation Trusts failing to meet set objectives. Monitor has indicated that independent reviews of self certification will be undertaken if this pattern continues in 2007/8.

Relationship between the Board of Governors and the Board of Directors

3.23 There is strong evidence to suggest that the operational role of the Board of Directors is clearly set out and understood by all parties.

3.24 The role of the Board of Governors in strategic planning however has proved more contentious and proved to be a source of great tension in the relationship between the Board of Governors and the Board of Directors (Day & Klein, 2005, Lewis, 2005, Chester, 2005).

3.25 Analysis of the operation of both Board of Directors and the Board of Governors suggest that the Chairman (who Chairs both) and the Chief Executive play a significant in driving the agenda of the Boards. Governors also reported that the dual role lead to conflict as they lacked their own Chair through which to hold the Board to account. In its audit of Foundation Trusts,, the Healthcare Commission (2005) has questioned the role of the Board of Governors in influencing the decisions of the Board of Directors.

3.26 No details are provided within the Whittington Foundation Trust consultation document as to how both boards will interrelate, the Chairman will however chair both boards.

- **How will the Board of Governors have meaningful influence with the decisions of the Board of Directors?**

- **What will be the Board of Governors role in strategic planning for the Trust?**
- **How will an effective relationship between the two Boards be forged at the Whittington Hospital?**

4. Partnerships and the local health economy

Primary Care Trust

4.1 PCTs will be required to enter new legally binding three year contracts with the Foundation Trust. Evidence from other scrutiny reviews (Camden, Birmingham) indicates that there needs to be a careful evaluation of the local PCTs capability and capacity to mange the new relationship with the Foundation Trusts, particularly in relation to commissioning, contract monitoring and performance management.

4.2 Concerns have been noted in respect of the long term (3 year) legally binding contracts that PCTs will enter in to with Foundation Trusts and the flexibility that the PCT will have to develop more primary care based models of service provision (as set out in the review of London NHS services). This is particularly important at this juncture as the PCT is developing its Primary Care Strategy.

4.3 As Foundation Trusts are likely to have contracts with a number of PCTs and operate from a position of greater strength than individual PCTs, there is a danger that services may become provider led (i.e. set by the Foundation Trust). This is particularly pertinent given the development of Practice Based Commissioning, as service are commissioned from smaller purchasing units (groups of GPs). Consortia or joint commissioning arrangements (already developed for specialised services) may increase the ability of the PCT to direct and determine the nature and level of service provision at Foundation Trusts.

4.4 PCTs may need to develop more robust monitoring systems to ensure that ‘case mix drift’ does not occur, where Foundation Trusts ‘select’ patients on the basis that certain interventions attract a higher tariff or that certain conditions are associated with higher costs. This situation may be particularly prevalent where there is a high for demand services.

4.5 It is noted that disputes between Foundation Trusts and PCTs have occurred. In such disputes the regulator (Monitor) has been reluctant to become involved encouraging parties to seek local resolutions to problems that occur. A number of these disputes have been facilitated by local Overview and Scrutiny Committees.

- **Does the PCT have the capacity, skills, expertise and infrastructure to commission, monitor and performance manage contracts with the Foundation Trust?**

- **What steps will the PCT take to ensure that the commissioning process is truly commissioning lead?**
- **Will there be sufficient flexibility within the contracts to allow the PCT to develop its primary care based models of service provision?**
- **What will be the role of Practice Based Commissioners be with the Foundation Trust?**

Other partnerships

4.5 Foundation Trusts have a 'Duty of Partnership' with other health and social care institutions in the locality which is obligatory under the terms of their licence. There is however, no mechanism to assess or monitor this. All major partners however, have nominated Membership to the Board of Governors.

4.6 The new financial freedoms available to Foundation Trusts may be likely to place them at a considerable competitive advantage over other NHS trusts in the local health economy. How this may relate with 'Duty of partnership' is undefined, thus there may be need to ensure that Foundation Trusts do not act in an uncompetitive manner.

4.7 It is noted that the North Middlesex Hospital and Barnet, Enfield & Haringey Mental Health Trust are currently preparing applications for Foundation Trust status (also to be submitted in 2008), thus if all local applications are successful, the impact of an 'unequal playing field' among acute trusts may be limited.

5. Impact on local people

5.1 The Whittington Hospital consultation document indicates that new freedoms available within Foundation Trust will be used to prioritise developing services to meet local needs. As such, patients may see an improvement in services through:

- New governance arrangements will ensure that the Hospital is more accountable to the local community (i.e. patients and public on Board of Governors);
- Operation of the Membership will enable local people to become more involved and bring closer links to the community;
- Services may be more responsive to community needs through more localised control over finances (i.e. the reinvestment of operating surpluses in local services) and improved arrangements for patient and public feedback (i.e. through the Membership);
- Speedier access to capital will give staff better facilities and equipment to maintain high levels of patient care.

5.2 In an audit to assess the impact of Foundation Trusts, the Healthcare Commission (2005) found that access and the quality of services available to patients had improved through a number of ways:

- The existence of business strategies that focussed on growth and the development of new services for patients;

- Increased ability to plan and develop services more quickly;
- Had greater ability to focus on patient priorities, particularly access to services and patients environmental concerns;
- Improved financial management of services;
- No real variance in clinical networks or the pathways of care experienced by patients.

5.3 Although early evidence would suggest that Foundation Trust status has had little impact on clinical networks and care pathways, commentators have urged ongoing collaboration to ensure that Foundation Trust status does not strengthen institutional boundaries which may make it more difficult to ensure that patients continue to receive an integrated package of care.

5.4 The Whittington Hospital's would currently appear to be performing well with overall performance rated as good by the Healthcare Commission (2007). For assessment of core standards in the quality of services the Trust is rated as 'good', core standards (i.e.. clinical guidelines) have 'almost been met', national targets (i.e. waiting times) have been 'fully met', new national targets (i.e. health inequalities) the performance has been rated as excellent (Healthcare Commission, 2007).

5.5 Not all Foundation Trusts are currently meeting core NHS standards, a pre-requisite within their licence to operate. In total 25 Foundation Trusts are not meeting all core standards, 22 of which are failing to meet infection control measures (MRSA) or not predicted to meet reduction targets. (Monitor, 2007) Monitor has indicated that it is unacceptable that Foundation Trusts are predicting an operating surplus whilst still continuing to breach standards which are part of their licence agreement, most notably MRSA. The Whittington is currently rated as 'under achieving' on MRSA targets (Healthcare Commission, 2007).

5.6 The Healthcare Commission conduct a national annual patient satisfaction survey in the acute sector where patients are asked to rate services according to admissions, the hospital ward, treatment received and interaction with doctors and nurses. In this survey, the Whittington scored in the top 20% of Trusts for 5 variables and scored in the bottom 20% of Trusts for 14 variables (Healthcare Commission, 2007a).

How will the acquisition of Foundation Trust status help to meet local health inequalities targets?
What will be priorities for service improvement and service development once Foundation Trust status has been achieved?

6. Finance

6.1 Overall the Foundation Trust Sector is financially stable with a predicted operating surplus of £198 million predicted for 2007/8. 57 of the 59 Foundation Trusts are predicting an operating surplus in 2007/8. Projected operating surplus across the sector varies from £10,000 to £14.45 million

(median £1.81million). There is evidence that the Foundation Trust sector is reducing operating costs, where £344million (3%) of cost savings have been achieved in 2006/7.

6.2 All Foundation Trusts are prescribed a borrowing limit set by the regulator based on an individual assessment of their finances. Increases in capital expenditure (2005/6) would appear to be financed predominantly financed through public sector loans (£137m), though other sources were used such as private sector loans (£74m) and disposal of assets (£63). There is a however a concern that there is an under development of capital in the Foundation Trust sector at present given the uncertainty around PCT commissioning plans.

6.3 There is evidence to suggest that there is a strong financial monitoring system in place to support Foundation Trusts. Those Foundation Trusts that fail to meet standards set by the regulatory authority are required to submit monthly recovery plans.

6.4 Monitor has an 'Asset Protection' process to ensure that there is due process in the disposal of key capital assets of Foundation Trusts.

- **How will the Whittington use new financial freedoms available under Foundation Trust status?**
- **What are the consultation processes for any plans to dispose of capital assets?**
- **What are the investment priorities for any operating surpluses?**

7. Relationship with Overview and Scrutiny

7.1 The relationship of the Foundation Trust with Overview & Scrutiny Committee should continue as before, with one exception, that appeals should now be directed to Monitor (the Foundation Trust regulator) instead of the Secretary of State. There is no public evidence of any appeals being lodged to date with Monitor.

7.2 Patient and Public Involvement Forums will be dissolved in April 2008 and be replaced by Local Involvement Networks (LINks).

- **What will be the implications of the establishment of Local Involvement Networks (LINks) for the Foundation Trust?**
- **How will the Membership of the Foundation Trust interrelate with LINks?**

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