

WHO IS GOVERNANCE FOR?

Defending and protecting the interests of the organisation or taking a wider community perspective 'for the greater good'?

This case study explores the interplay of a number of dilemmas, including:

- Who is governance for?
- Board effectiveness when things get tough
- The place of regulatory assurance in ensuring accountability

The case study describes the approach that Bedfordshire and Luton Partnership Trust has taken to respond to these dilemmas. It sets out the process through which the board of this organisation reached the conclusion that it would not be able to achieve foundation trust status in its own right. In the public interest, the Board stood down to facilitate a takeover of the organisation by an existing foundation trust.

Bedfordshire and Luton Partnership Trust

Bedfordshire and Luton Mental Health and Social Care Partnership Trust was formed in April 2005 by integrating services from the Community Trust, County and Borough Councils. The Trust provides mental health, learning disability and social care—services to 600,000 people who live in Luton and Bedfordshire. They do this from over 50 sites, and employ 1400 professional and caring staff.

The health economy had a history of financial challenges, and all Trusts were asked to co-operate in helping to resolve the financial short-fall, and this set the financial context for this Trust.

In late 2006 the Trust board started the preparation process for the Foundation Trust (FT) application process. Up to that point, the regulatory assessment of the Partnership's registered properties for people with learning disability had been satisfactory, and the board had been assured that there were no substantive issues there. Indeed in 2005 the Trust's clinical governance was rated as one of the top 20% in the country by the regulator at the time - the Commission for Health Improvement (CHI). However, following the investigation into Cornwall Partnership's learning disability services, there was a review of the inspection procedures for learning disabilities. A re-inspection by the Commission of Social Care Inspection (now the Care Quality Commission) of the quality of the service provided to people with learning disability at Bedfordshire and Luton revealed a number of issues in relation to human rights of the clients as well as the need to improve some of the accommodation.

The board and organisation's response to this was to recognise that the Learning Disability residential service would be better provided in the third sector. This was achieved in nine months, but required significant board time and attention.

As a result the work on preparing for Foundation Trust status understandably slowed, while attention was given to achieving a satisfactory and safe transfer of the learning disability services. Clearly one of the impacts of this was a loss of revenue for the Trust. This began to raise some concerns about the long term viability of the organisation. Potential plans of the Primary Care Trust (PCT) to tender other services added to this uncertainty, but these were not firmed up at this stage.

Nonetheless, the FT application process was re-started, including the board participating in a range of development sessions. The messages that the board took from these, and from guidance from consultants with experience of Monitor requirements, was that they needed to be more business-like, have a clear strategy, introduce service line management and really understand the finances.

Prior to the FT application process, the board had a rolling programme of visits throughout the organisation. This was seen to be important for visibility, as well as an opportunity to develop an informal understanding of what issues were pre-occupying staff. The advice offered to the board at the time, was that they needed to focus their energies on the FT application process, and so these routine visits stopped. As a result, board members were not picking up on informal message or problems in the organisation.

The board was progressing through the FT application process, including attending one board to board meeting with NHS East of England. They felt they were ready to go to the next stage.

Early in 2008 concerns started to surface about clinical governance. It became clear that there were a number of underlying issues regarding clinical governance that had not been reported to the board. Some of these were of a very serious nature. Executives were really focussed on trying to remedy these issues and present solutions to the Board, but after matters had "come to a head" the NEDs reflected that this approach had prevented early discussions and planning by the Board itself, and the opportunity to monitor closely and performance manage the necessary changes. Relationships with commissioners were also strained, although the extent of the difficulties in relationships was not highlighted sufficiently by the Directors or the Commissioners themselves.

There followed a number of significant changes in the executive leadership of the Trust. The chief executive stepped down from his post, and the CE of South Essex Partnership NHS Foundation Trust agreed to act as an interim on a part-time basis. Other executive director changes followed.

The intention was still to proceed to FT at that stage. However, a confluence of factors caused the board to re-appraise this decision in January 2009. Firstly, it was clear that significant improvements were needed to the clinical governance structures and the

intelligence provided to the board. Secondly, the pace of FT applications for East of England was accelerating and thirdly the PCT's commissioning intentions were becoming clearer, including the intention to tender specialist learning disability services and the possibility of low secure provision being tendered.

The board recognised that the Trust was unlikely to be viable as currently configured, and concluded that if it merged with an established Foundation Trust, that would provide the greatest opportunity to offer top quality services in the Bedfordshire and Luton patch, and achieve Foundation Trust status as planned. They also felt that this would provide opportunities for staff too, and enhance their ability to recruit. The board unanimously offered to step down when an appropriate organisation had been identified, to allow such a merger to take place.

It was a very difficult decision to take, but ultimately the board recognised that its role was to ensure that the right services are provided to a high quality and that this was the best way of achieving it.

The outcome is that, with the support of NHS East of England, and after a full and open process, the Trust will be taken over by South Essex Partnership NHS Foundation Trust from April 2010.