

To: The Board

For meeting on: 5 June 2013

Agenda item: 5

Report by: Stephen Hay, Managing Director of Provider Regulation
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Report for: Discussion

TITLE: Performance of the NHS Foundation Trust sector – year ended 31 March 2013

Summary:

This report provides the Board with information about the performance of the NHS foundation trust (FT) sector during the 2012/13 year. Board members are asked to note that this analysis is based on unaudited data.

This is a new way of presenting this information to the Board and Board members are asked to provide their comments on this new style of report. In the future it is anticipated that further information will be gathered with regard to mental health and ambulance trusts, which will enable greater analysis of these parts of the sector.

Recommendations:

The Board is asked to provide comments on the attached report.

Public Sector Equality Duty:

Monitor has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. In relation to the issues set out in this paper, consideration has been given to the impact that the recommendations might have on these requirements and on the nine protected groups identified by the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, gender and sexual orientation).

It is anticipated that the recommendations of this paper are not likely to have any particular impact upon the requirements of or the protected groups identified by the Equality Act.

Exempt information:

Some of this report is exempt under the Freedom of Information Act 2000.

Some of the information in this report (redacted) is exempt from publication as it falls under section 36 of the Freedom of Information Act 2000. The information is exempt because disclosure of that information would, or would be likely to, inhibit the free and frank provision of advice, or exchange of views for the purposes of deliberation. In applying these exemptions, we have considered the public interest test; disclosure of this information will not enhance the accountability or transparency of Monitor as its disclosure would inhibit the free frank disclosure of information.

Performance of the Foundation Trust sector

Year ended 31 March 2013

Operational performance

- The FT sector has significantly underperformed against the 4 hour A&E target this winter. 47 FTs breached the target in Q4 (January to March 2013). Overall performance in Q4 was 94.3% against the 95% standard. Monitor is working closely with NHS England and the NHS Trust Development Authority to improve performance in Q1 2013/14 and to help trusts prepare for next winter.
- Causes of the A&E breaches were: increases in volume and acuity of A&E attendances, increases in volumes and acuity of non-elective admissions, lack of adequate supported discharge services and physical capacity constraints.
- Infection control continues to improve although the rate of improvement has slowed compared with prior years.
- Performance against the referral to treatment (RTT) and cancer targets has generally improved in 2012/13. However, the operational pressures from non-elective activity (A&E) appear to have contributed to a deterioration in performance in Q4.

Financial performance

- The FT sector delivered a surplus before exceptional items of £540 million for the year ended 31 March 2013. This was £159 million ahead of plan and a £31 million improvement on last year.
- EBITDA margins for the year of 6.0% were fractionally better than plan (5.9%) and slightly down on last year (6.1%).
- Although total revenues were 3.7% ahead of plan, cost pressures (agency staffing and drugs) resulted in this additional revenue generating a limited incremental margin (6.9%). Furthermore, the sector's delivery of CIPs was 14.8% lower than plan, at £1.3 billion (3.4% of operating costs).
- Cash balances continued to grow strongly and the sector had £4.5 billion on the consolidated balance sheet at 31 March 2013. Once again the sector failed to plan capital expenditure robustly and ended under-spending by £841 million against plan.
- Impairments of fixed assets totalled £615 million, reflecting a reduction in the market value of the asset base. A significant number of FTs carried out 5-year valuations during 2012/13.
- The number of FTs in deficit rose from 15 to 16 over the year. Gross deficits were £143 million (2012: £105 million). Five trusts account for the majority of this (Peterborough, Bolton, Morecambe Bay, Mid Staffordshire and Sherwood Forest).
- 5 FTs received Public Dividend Capital funding during 2012/13 while long-term solutions to their financial challenges are developed. They were Peterborough, Mid Staffordshire, Bolton, Heatherwood and Wexham Park and Milton Keynes.

Regulatory performance

- 19 FTs were in significant breach of their terms of authorisation at 31 March 2013. Five FTs were taken out of significant breach during the year and a further seven FTs found in significant breach.
- Monitor used the new failure and continuity of service regime during 2012/13: a Trust Special Administrator was appointed at Mid Staffordshire and a Contingency Planning Team at Peterborough.
- Bolton, Morecambe Bay and Sherwood Forest have all been subject to changes to leadership during the year.

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The financial information included in this report is based upon unaudited Quarter 4 submissions from the 145 Foundation Trusts and therefore could be subject to change through the audit process. Audited financial information for the FT sector will be available in July 2013.

Summary of the Foundation Trust sector Monitor as at 31 March 2013

	Number of trusts	Revenues £m	Average FRR	% Red GRR	Number in significant breach
Acute	81	27,844	3.1	30%	18
Mental Health	41	8,116	3.7	2%	
Specialist	18	2,756	3.9	6%	1
Ambulance	5	629	4.0	0%	
Total	145	39,345	3.4	18%	19

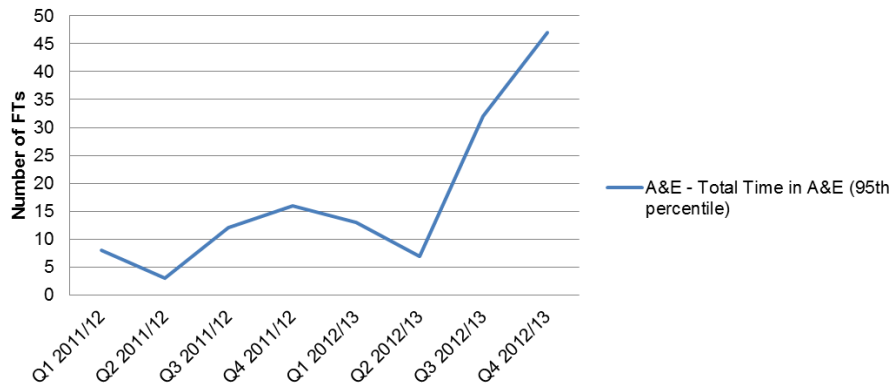
- As at 31 March 2013 there were 145 Foundation Trusts with aggregate revenues of £39.3 billion.
- The acute sector accounts for 56% of the portfolio by number and 71% by revenue.
- There were 19 FTs (13%) in significant breach of their Authorisation at the end of the year. With the exception of one specialist trust (RNHRD) all those in breach were acute trusts.
- Small acutes have an average FRR of 2.8 representing the most financially challenged sector.

Analysis of Acute sector:

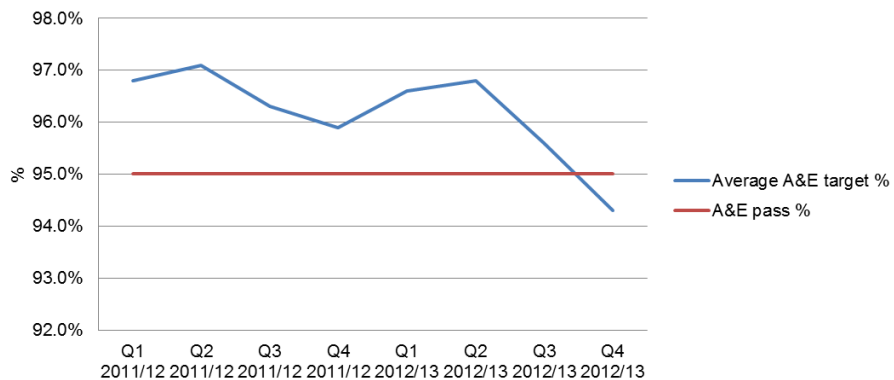
Trust size (Revenue)	Number of trusts	Revenues £m	Average FRR	% Red GRR	Number in significant breach
Small (<£200m)	20	3,430	2.8	35%	6
Medium (£200m-£400m)	41	11,763	3.0	29%	10
Large (>£400m)	20	12,651	3.6	25%	2
Total Acute	81	27,844	3.1	30%	18

Operational performance

Number of FTs breaching the A&E target

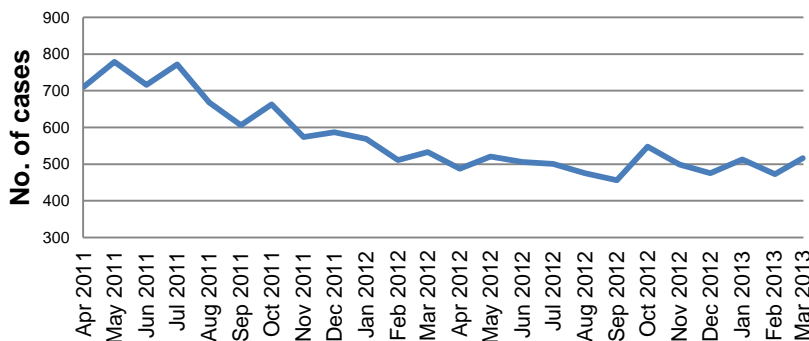


Average A&E target % for FTs

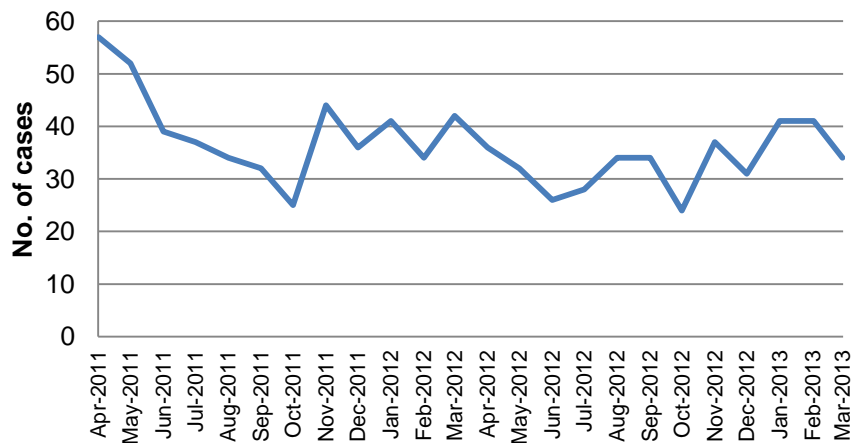


- The FT sector has significantly underperformed against the 4 hour A&E target this winter:
 - 47 out of 81 acute FTs (58%) breached the 4 hour target in Q4 (Jan-March 2013); and
 - overall performance for all trusts with A&E departments in Q4 was 94.3% against the 95% standard.
- A&E performance was similar at the non FTs where 43 out of 61 acute providers (70%) failed the target in Q4.
- FTs have reported a range of reasons for this underperformance (which vary from FT to FT but may include):
 - increase in volume and acuity of A&E attendances;
 - increase in volume and acuity of non-elective admissions;
 - lack of adequate supported discharge services (e.g. intermediate care beds, nursing home places, etc.); and
 - bed, staffing and physical capacity constraints.
- Monitor has been working with both NHS England and the NHS Trust Development Authority to address this issue, ensuring:
 - oversight of recovery trajectories & regulatory action where appropriate;
 - system wide response & planning for winter 2013/14; and
 - discussion with NHS providers and commissioners within a local health economy to explore emergency care issues and develop potential medium and long term solutions with a range of local stakeholders.
- Performance continued to decline in April but there has been an improvement during May 2013:
 - April 92.2%
 - May 95.8% (up to 19 May)

Number of C.Difficile cases between April 2011 and March 2013

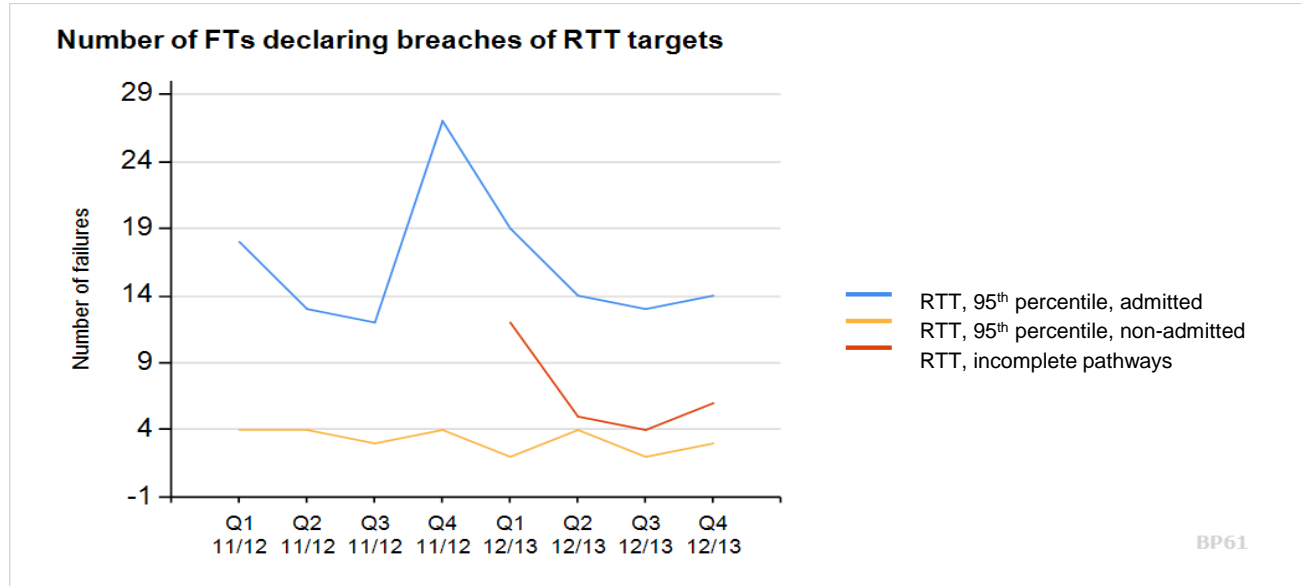


Number of MRSA cases between April 2011 and March 2013



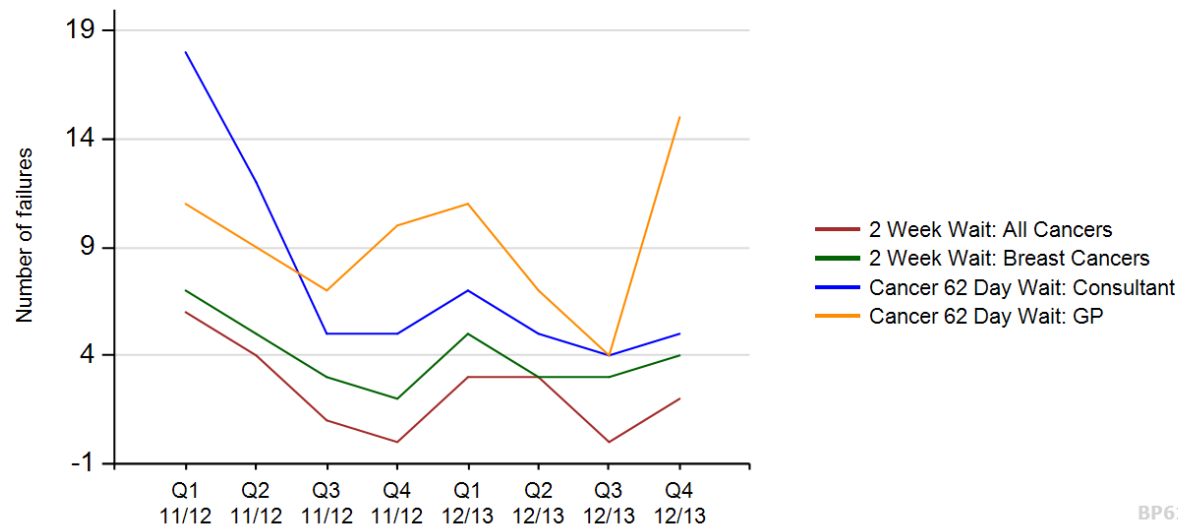
- The sector has continued to demonstrate good infection control and the number of C.Difficile cases reported has been on a downward trajectory over the last two years. However, the rate of improvement has slowed. There were slightly more breaches in Q4 this year than last.
- This is partly due to more challenging targets, however FTs have also reported a range of reasons for underperformance including:
 - higher numbers of community acquired infections;
 - the impact of antimicrobial prescribing especially for frail, elderly and long-stay patients; and
 - high bed occupancy rates associated with emergency care pressures in Q3 and Q4 2012/13 which may have reduced trusts' ability to isolate or cohort patients to minimise infection rates.
- The number of reported MRSA cases has also improved over the last two years. However, as with C.Difficile, the rate of improvement is slowing as targets become more challenging. Four FTs breached the MRSA target in Q4 compared to six in Q4 2011/12. Reported causes for breach of the target have included:
 - higher incidents of community acquired infections;
 - norovirus outbreak; and
 - weak infection control.

Referral to treatment (RTT)



- The number of breaches of the RTT 18 week target for admitted or non-admitted patients has decreased substantially from Q4 2011/12 (31) to Q4 2012/13 (17). This is related to the introduction of the RTT incomplete pathways target in Q1 of 2012/13, which was designed to ensure Trusts dealt with their RTT backlogs in a focussed and sustainable way.
- Performance against all 3 RTT targets has deteriorated slightly since Q3 2012/13 with 23 breaches of one or more RTT targets recorded between 17 trusts in Q4.
- In some cases, FTs have had to cancel elective work to deal with increased A&E and non-elective pressures and several trusts have reported increases in RTT backlogs.
- Typically, early action to treat those patients who have waited the longest time (and who may have already waited longer than 18 weeks) is in the best interests of patients, however we note that this could lead to RTT target failures in Q1 and beyond. We would encourage FTs to continue to treat patients on the basis of need and safety.

Number of FTs declaring breaches of Cancer targets



BP61

- Overall, there has been an improvement against the cancer targets over the last two years. However, performance has deteriorated in Q4 2012/13. This is most significant in the 62-Day Wait For First Treatment (urgent GP Referral To Treatment) target where there were 15 breaches in Q4 2012/13 compared with 10 in Q4 2011/12. FTs have reported a number of reasons for this including:
 - closure of SHA administration teams following 1 April meaning the reallocation exercise of breaches due to late referrals from other hospitals did not take place; and
 - reductions in bed or diagnostic capacity, due to non-elective pressures within the trust.
- There has been a slight deterioration in the performance on other cancer targets. FTs have cited patients choosing to defer appointments, cancellations, and the disproportionate impact of breaches on trusts dealing with small patient numbers, as contributing factors to under-performance against these targets.

Financial performance

Income & expenditure

£m	2012/13		2011/12
	Actual	Plan	Actual
Operating revenue	39,345	37,937	35,749
Employee expenses	(24,585)	(24,029)	(22,565)
Other operating expenses	(12,414)	(11,658)	(10,993)
EBITDA	2,347	2,250	2,191
Depreciation and amortisation	(1,121)	(1,126)	(1,009)
Finance expenses	(784)	(827)	(759)
Other income & expenses	99	84	86
Surplus before exceptionals	540	381	509
Impairments	(615)	(171)	(438)
Restructuring costs	(48)	(39)	
Gains/(losses) on transfers	156		
Net surplus	33	171	71
Cash and cash equivalents at 31 March	4,513	3,246	3,976
EBITDA margin	6.0%	5.9%	6.1%

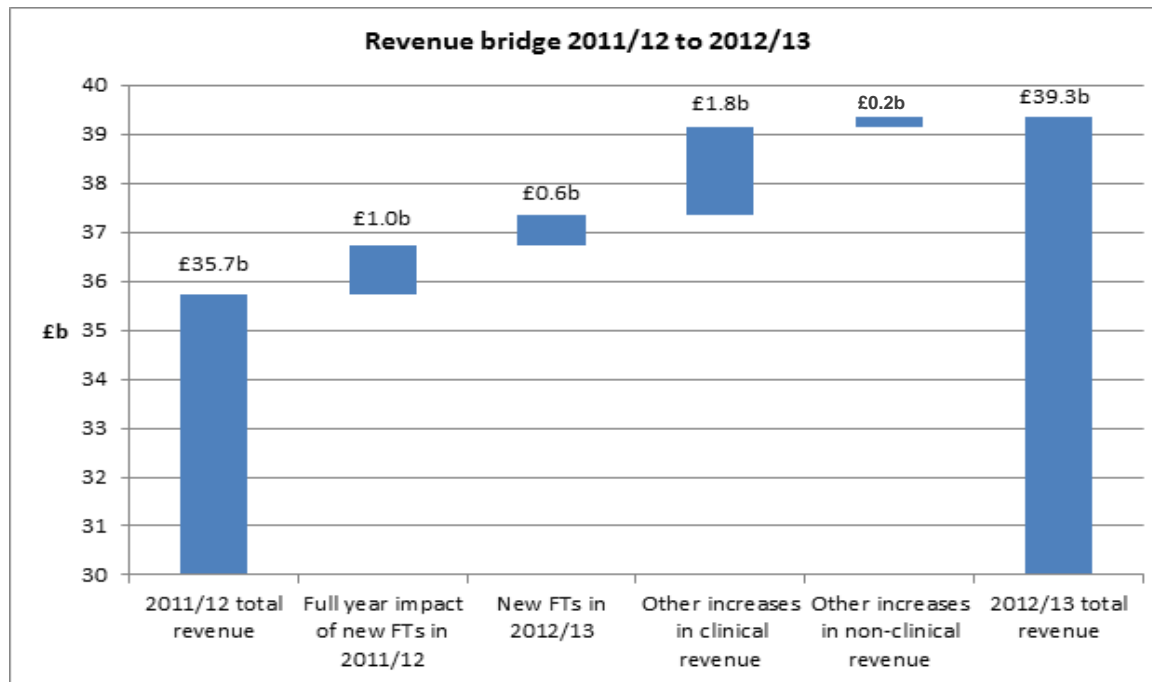
- The sector made a surplus before exceptionals of £540 million, ahead of both plan and last year.
- Operating revenues were 3.7% ahead of plan due to higher activity levels. Other clinical revenues and non-clinical revenues were significantly above plan, due to winter pressure funding, reimbursement for high cost drugs, Project Diamond (London Teaching Hospitals) funding and other miscellaneous income.
- Employee costs exceeded plan, due to a significant (£514 million) overspend on agency staff, partly due to higher activity levels.
- EBITDA margins were marginally ahead of plan and fractionally below last year. Revenues were 3.7% (£1.4 billion) higher than plan and this additional revenue has been generated at a margin of 6.9%. We believe that additional emergency activity has been carried out at very low or negative margins, due to the 30% marginal tariff and impact of higher agency spend. However, higher 'other clinical revenues' and 'non-clinical revenues' have had an offsetting impact on margins.
- Cash (£4.5 billion) has risen sharply against both plan and last year. Against plan, this is due to significant capital expenditure slippage and working capital movements. Against last year, the principal causes of the increase are the surplus for the year and working capital movements.
- Fixed asset impairments for the year totalled £615 million, reflecting a reduction in the market value of the asset base.

Analysis of income (1/2)

£m	2012/13		2011/12
	Actual	Plan	Actual
Ambulance Activity	605	570	339
Community Activity	2,962	2,956	2,574
Mental Health Activity	5,678	5,562	5,552
Elective Activity	3,099	3,193	2,947
Non-elective Activity	6,595	6,412	6,235
Outpatient Activity	4,424	4,299	4,052
A&E	840	811	745
Planned day cases	2,088	2,021	2,033
Contract penalties and adjustments	10	4	4
Non-NHS clinical revenue	641	608	540
Other clinical revenue	7,750	7,274	6,509
TOTAL CLINICAL	34,694	33,709	31,530
Donations & grants to fund operating expenses	26	21	7
Research and Development	623	531	497
Education and Training	1,484	1,436	1,391
PFI specific revenue	20	23	27
Other non-clinical revenue	2,498	2,217	2,297
TOTAL NON-CLINICAL	4,651	4,228	4,219
TOTAL OPERATING REVENUES	39,345	37,936	35,749

- Total operating revenues were £1.4 billion (3.7%) ahead of plan.
- Non elective revenues were £183 million above plan, reflecting higher activity levels. This higher level of emergency work has displaced elective activity, which was £94 million lower than expected. We believe this change in mix is likely to have depressed underlying margins.
- Outpatients and mental health revenues exceeded plan by £125 million and £116 million respectively.
- Other clinical revenues accounted for a £476m variance to plan. Detailed analysis of this variance has proved difficult. However, discussions with FTs indicate it represents winter pressure payments, reimbursement for high cost drugs (likely to be margin neutral), Project Diamond (London Teaching Hospitals) funding and certain other one-off payments by commissioners.
- Non-clinical revenues were £423 million above plan reflecting higher R&D funding, funding for IT programmes and other miscellaneous income (this has been described as for 'transformation programmes' or 'estates rationalisation' by the FTs).

Analysis of income (2/2)



- There were 7 new FTs authorised in 2011/12. The full year effect of their authorisation amounts to an additional £1 billion of revenue.
- New FTs authorised in 2012/13 were the Royal Free (1 April 2012) and West Midlands Ambulance Services (1 January 2013).
- There was a £1.8 billion 'like for like' increase in clinical revenues in 2012/13.

Analysis of operating costs

£m		2012/13		2011/12
		Actual	Plan	Actual
Employee expenses				
	Permanent staff	23,507	23,465	21,690
	Agency & contract	1,078	564	875
		<u>24,585</u>	<u>24,029</u>	<u>22,565</u>
Other operating expenses				
	Raw materials and consumables	7,771	7,259	6,938
	Cost of secondary commissioning	257	232	263
	Research & development	127	107	101
	Education and training	104	105	110
	PFI operating expenses	361	359	341
	Other	3,795	3,597	3,240
		<u>12,414</u>	<u>11,658</u>	<u>10,993</u>

- Permanent staff costs were only £42 million (0.2%) above plan. However, there was significant additional expenditure on agency and contract staff of £514 million (91%) above plan.
- Staff numbers (WTE) at 31 March 2013 were 589,580, an increase of 24,500 (4.3%) on the 565,100 WTE of 31 March 2012. However, 11,100 of the increase relates to the impact of new FTs in the year. The increase of staff numbers excluding additional FTs is therefore 13,400 (2.4%).
- Employee costs per WTE (excluding agency and contract) rose from £39,800 last year to £41,600 this year.
- The significant overspend on agency and contract staff relates to higher levels of emergency activity and using agency staff to cover permanent positions. A number of FTs have also reported rising prices for agency staff as the demand supply balance has tightened.
- Raw materials and consumables are £512 million (7.1%) above plan. This results from higher activity and increased cost of high cost drugs.

Analysis of EBITDA margins

EBITDA % margin

2008/9	7.1%
2009/10	7.0%
2010/11	6.7%
2011/12	6.1%
2012/13	6.0%

EBITDA margins by sector in 2012/13

Acute	5.8%
Mental Health	5.9%
Specialist	7.2%
Ambulance	7.6%

EBITDA margins by Quarter in 2012/13

	Actual	Plan
Q1	5.5%	5.4%
Q2	5.8%	5.7%
Q3	6.0%	5.9%
Q4	6.0%	5.9%

- EBITDA margins have declined over the last 5 years due to the financial pressure on the sector. This has been reflected in the tariff through challenging efficiency requirements.
- Although revenues were up 3.7% against plan, margins have remained flat. We believe this is due to the impact of the marginal (30%) tariff for non-elective work and the high use of agency staff through the winter period. The failure to deliver all the planned CIPs (14.8% shortfall) in the year will also have depressed overall margins.
- Margins vary quite significantly by trust type. The acute and mental health sectors are under greater financial pressure than the specialist hospitals and ambulance sector. As acute and mental health account for 92% of revenues they dominate the impact on overall margin performance.
- Margins exceeded plan each quarter and improved as the year went on. This reflects the back end loading of cost improvement plans and their subsequent delivery.

Segmental analysis

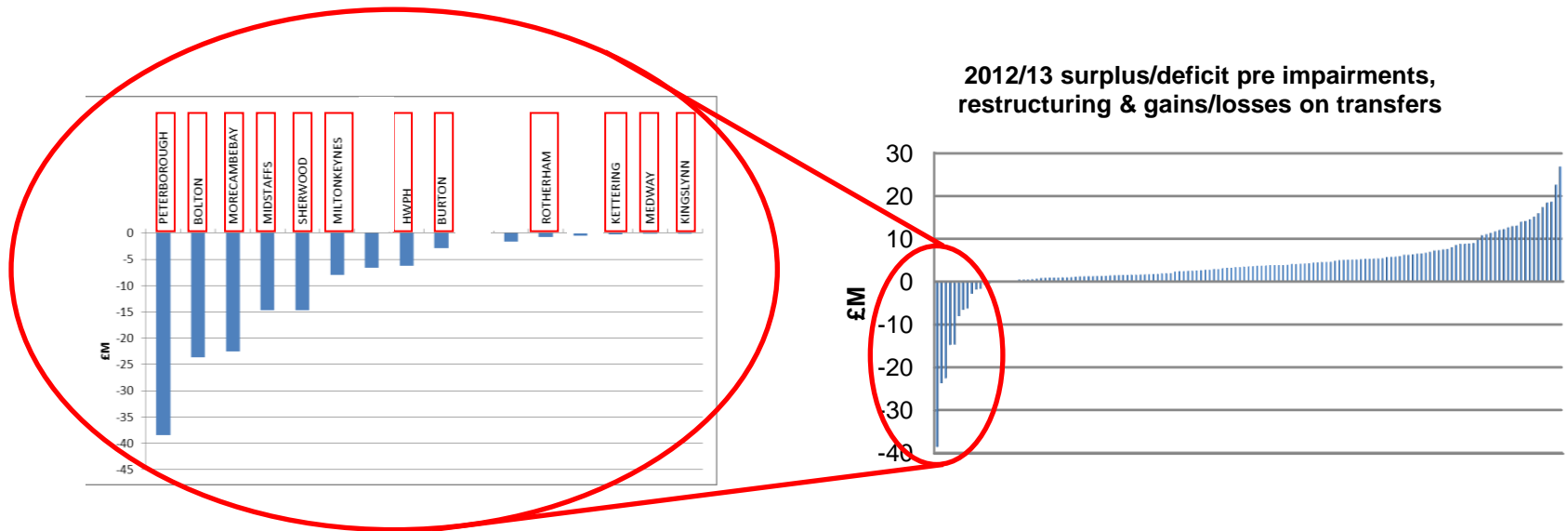
2012/13	Acute (81 trusts)	Mental Health (41 trusts)	Specialist (18 Trusts)	Ambulance (5 trusts)	Total
	£m	£m	£m	£m	£m
Operating revenue	27,844	8,116	2,756	629	39,345
Operating Costs	(26,218)	(7,640)	(2,559)	(581)	(36,998)
EBITDA	1,626	476	197	48	2,347
Depreciation & Financing costs	(1,404)	(280)	(85)	(38)	(1,807)
Surplus before exceptionals	222	196	112	9	540
EBITDA margin	5.84%	5.86%	7.16%	7.58%	5.96%

2012/13	London (18 trusts)	Midlands (38 trusts)	North (55 Trusts)	South (34 trusts)	Total
	£m	£m	£m	£m	£m
Operating Revenue	6,869	8,790	15,338	8,349	39,345
Operating Costs	(6,442)	(8,314)	(14,418)	(7,825)	(36,998)
EBITDA	427	476	920	524	2,347
Depreciation & Financing costs	(288)	(454)	(654)	(410)	(1,807)
Surplus before exceptionals	139	22	266	114	540
EBITDA margin	6.22%	5.42%	6.00%	6.27%	5.96%

- The acute and mental health sectors are significantly more financially challenged than the specialist trusts and ambulance service.
- Small acutes with a margin of 4.7% are struggling financially as they risk losing income to both specialist hospitals and into the community as care moves closer to home. Small acutes operating across more than one site are especially challenged. Examples include Morecambe Bay, Heatherwood and Wexham Park and Mid Staffordshire.
- The Midlands & East has the lowest EBITDA margin (5.4%). There are four FTs in significant financial difficulty in this region (Peterborough, Mid Staffordshire, Sherwood Forest & Milton Keynes).
- The North includes Bolton, Morecambe Bay & Rotherham who are all in financial difficulty.
- There are no FTs currently in financial difficulty in London.

'S' curve

The majority of FTs are breaking even or in surplus. However, there is a tail of FTs in financial difficulty.



The number of FTs in deficit has increased from 15 last year to 16 this year.

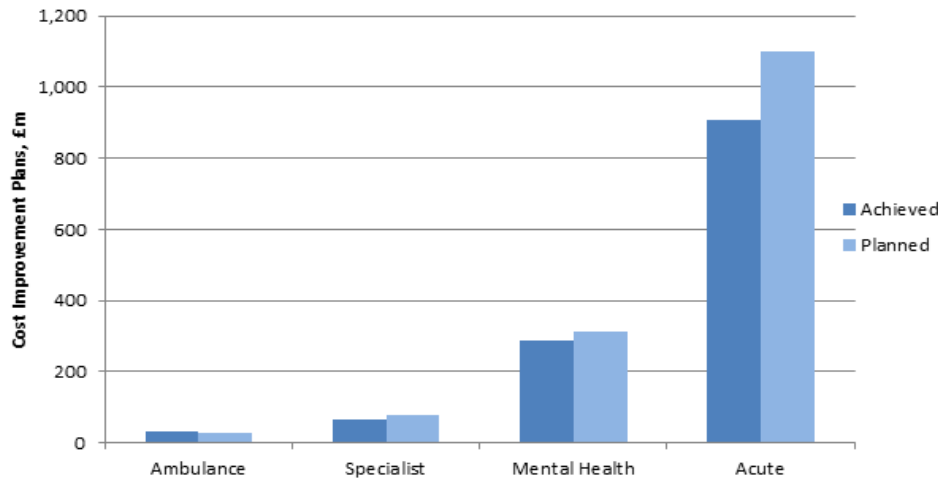
- Indicates that the FT was in significant breach at the end of the year.

- The number of FTs in deficit has increased from 15 at 31 March 2012 to 16 at 31 March 2013
- Gross deficits have risen from £105 million last year to £143 million at 31 March 2013
- There was a reduction in the number of FTs in gross deficit from 19 at Q3 to 16 at the year end

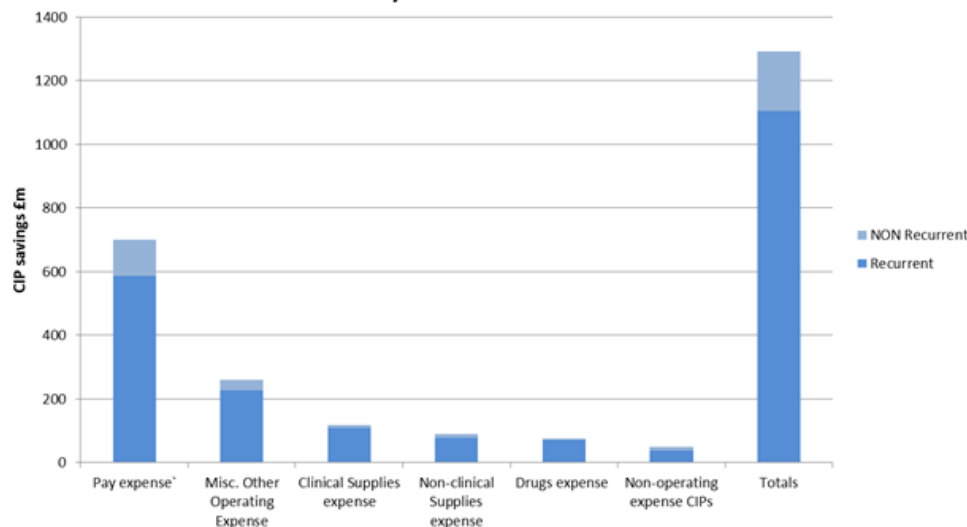
Further information regarding the finances of individual foundation trusts is available to Board members as a confidential annex.

CIP % operating expenses

CIPS : Actual v Plan



2012/13 CIP Performance



- FTs report actual and planned CIPs to Monitor quarterly. It should be noted that CIP data is not part of the accounting records and therefore subject to external audit.
- CIP delivery in 2012/13 of £1.3 billion represents 3.4% of controllable operating costs and is £225 million (14.8%) behind plan.
- There has been a gradual widening between actual and planned delivery. This is probably a reflection of the nature of schemes being harder to deliver, together with ongoing activity pressures making it harder to deliver planned cost reduction projects.
- Pay costs account for £701 million (54%) of cost improvement plans. This is to be expected as staff costs account for 63% of the cost base of the FT sector.
- The FT sector has reported significant savings as a proportion of operating costs over the last 3 years:

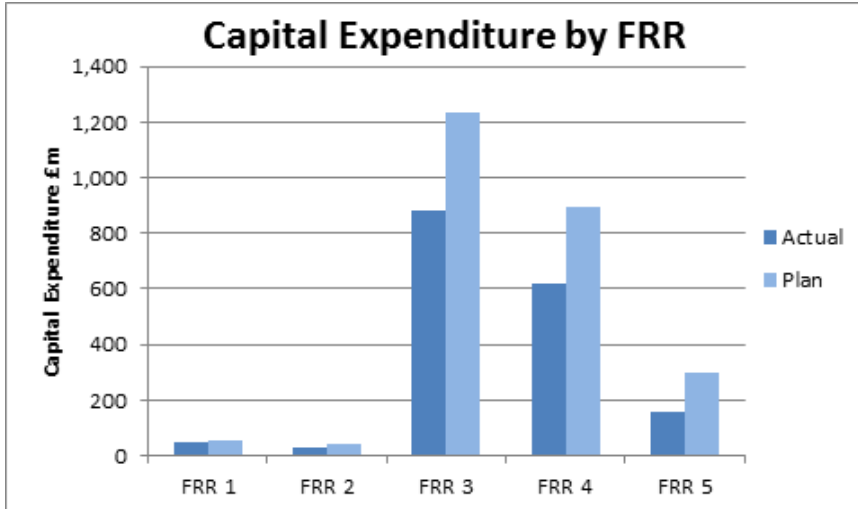
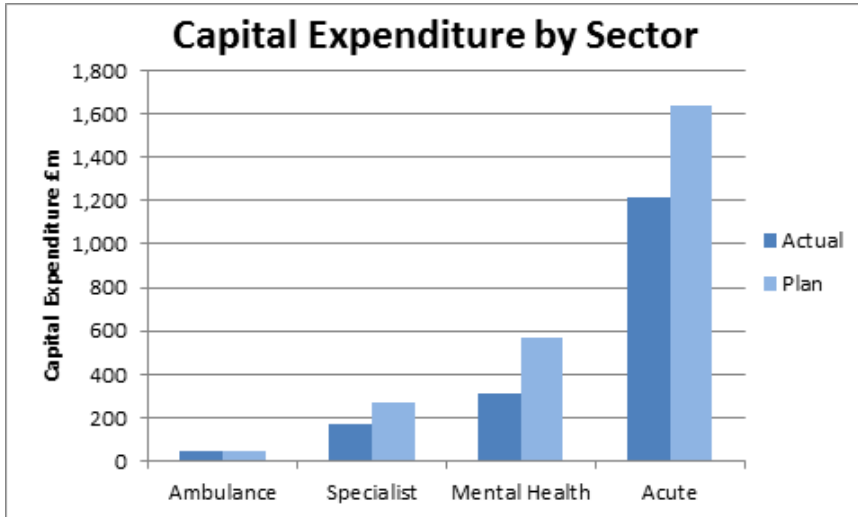
2012/13 – 3.4%
 2011/12 – 4.0%
 2010/11 – 3.9%

Cash flow £m	2012/13		2011/12
	Actual	Plan	Actual
Net surplus	33	171	71
Non operating and non cash items	2,445	2,184	2,106
Working capital movements	206	(373)	407
Net cash inflow from operating activities	2,683	1,983	2,584
Capital Expenditure	(1,713)	(2,554)	(1,430)
Other investing activities	39	67	121
Net cash (outflow) from financing	(1,674)	(2,487)	(1,309)
PDC capital movements	185	349	83
PDC dividend payments	(460)	(483)	(455)
Other financing activities	(272)	(192)	(229)
Net cash (outflow) from financing	(547)	(326)	(601)
Net increase/(decrease) in cash	463	(810)	674
Opening Cash and Equivalents	3,976	3,976	3,246
Cash and Equiv. in new FTs at authorisation	74	80	56
Closing Cash and Equivalents	4,513	3,246	3,976

- The FT sector has £4.5 billion of cash at 31 March 2013. This was £1.3 billion above plan and £0.5 billion higher than at 31 March 2012.
- The improved cash position of £0.5 billion compared with last year is due to the surplus generated by the sector together with a net cash inflow from working capital.
- The very significant difference to plan is a consequence of a slippage in capital expenditure of £841 million together with a variance on anticipated working capital movements of £579 million.
- The slippage on capital expenditure of 33% against plan is similar to last year and reinforces the need for the FT sector to significantly improve the robustness of its capital planning.
- The sector planned for a reduction of both trade payables and accruals when the reality was they both increased as at 31 March 2013.
- Unsurprisingly cash is not evenly distributed across the sector. There are 67 FTs with a FRR of 4 or 5. These trusts held £2.6 billion (58%) of cash at the year end.

Capital expenditure

The FT sector spent £1.7bn on capital expenditure against a plan of £2.5bn:



- Aggregate actual capital expenditure was 33% below plan (2012:30%). This continues the trend of recent years.
- Through our discussions with the FTs we believe a significant proportion of the underspend is slippage in the timing of projects rather than cancellation.
- Capital expenditure for the year exceeded depreciation by £0.6 billion.
- FTs in financial difficulty (FRR 1 & 2) have substantially cut back on capital expenditure in comparison to those trusts who are performing well financially (FRR 3, 4 & 5)
- The sector needs to substantially improve the robustness of its capital planning.

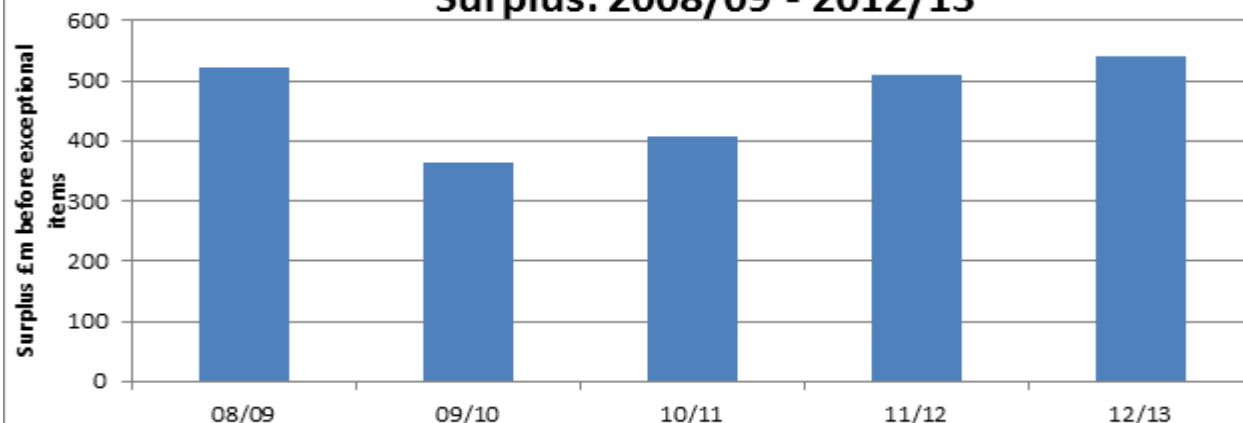
Balance sheet at 31 March 2013

Financial Position	31-Mar-13	31-Mar-13	31-Mar-12
	Actual £m	Plan £m	Actual £m
Owned Property, Plant & equipment	18,219	19,516	17,717
PFI assets	3,354	3,419	3,547
Other non-current assets	516	558	523
Total non-current assets	22,089	23,492	21,787
Stock	461	443	437
Trade & other receivables	1,223	1,130	1,079
Prepayments	254	260	241
Cash & Equivalents	4,513	3,246	3,976
Other current assets	412	320	399
Total current assets	6,864	5,398	6,133
Borrowings	(89)	(94)	(91)
Trade & other payables	(2,133)	(1,876)	(2,007)
Accruals	(1,441)	(1,171)	(1,203)
Deferred income	(504)	(399)	(543)
Provisions	(339)	(208)	(265)
Other current liabilities	(569)	(572)	(551)
Total current liabilities	(5,075)	(4,320)	(4,660)
Borrowings	(1,124)	(1,339)	(931)
Deferred income	(128)	(107)	(123)
Provisions	(256)	(260)	(253)
Leases PFI	(4,194)	(4,161)	(4,333)
Other non-current liabilities	(200)	(194)	(171)
Total non-current liabilities	(5,902)	(6,061)	(5,811)
Total funds employed	17,976	18,510	17,449
Retained earnings	972	1,061	829
Public Dividend Capital	12,727	12,997	12,278
Revaluation reserve	4,187	4,370	4,234
Other reserves	90	81	108
Total taxpayers' equity	17,976	18,510	17,449

- FTs typically carry out full valuation of their land and buildings every 5 years. Between these full valuations there is typically an interim valuation every 3 years.
- Upward revaluations are credited to the revaluation reserve. Downward revaluations are charged either to the revaluation reserve or to the I & E account (depending whether the asset has been revalued upwards in the past). Impairments arising from consumption of economic benefits are taken directly to the I & E account.
- For the year ended 31 March 2013 £349 million (2012: £266 million) of impairments have been charged to the revaluation reserve and £615 million (2012: £365 million) to the I & E account.
- Of the £615 million, £446 million reflects a change in the market value of the asset with a further £112 million due to impairments arising from management actions (decommissioning sites/wards, changes in use, theft/damage or overspecification).
- Monitor has reviewed all market value impairments above £20 million. This shows that all but one were the result of a full five year revaluation.
- However, there is an incentive for FTs to reduce the carrying value of their estate because PDC dividends are calculated at 3.5% of net relevant net assets. Monitor has asked the local auditors to look closely at this issue during the 2012/13 audit season.

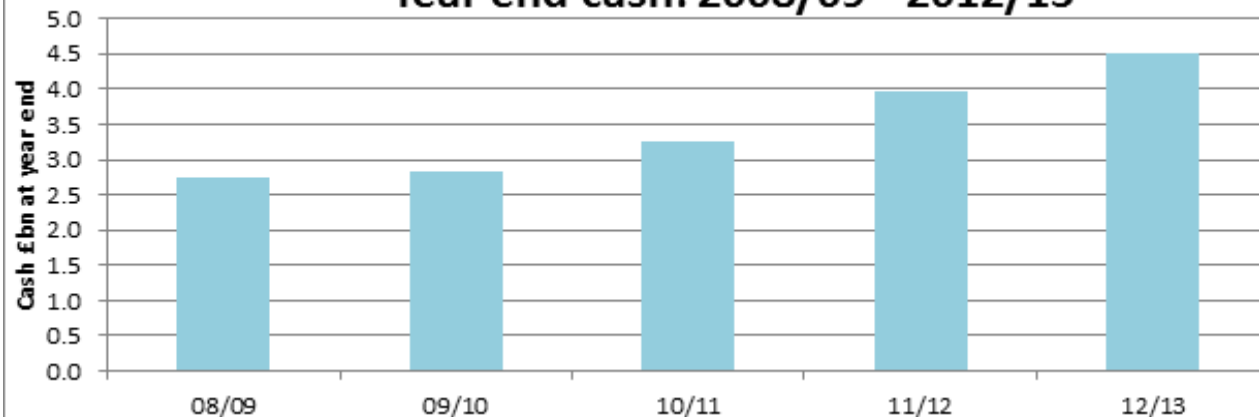
5 year trends

Surplus: 2008/09 - 2012/13



EBITDA %	7.1%	7.0%	6.7%	6.1%	6.0%
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Year end cash: 2008/09 - 2012/13



Trusts	115	129	136	143	145
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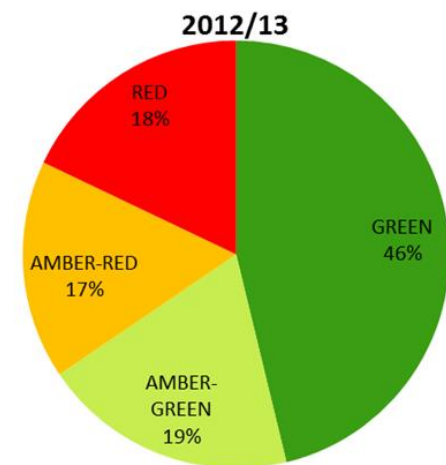
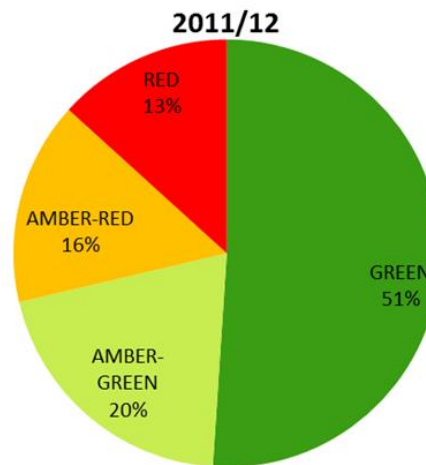
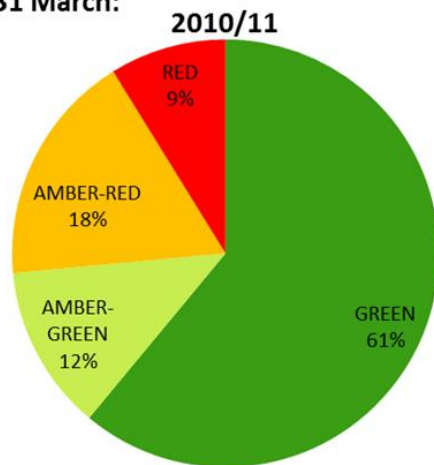
- Despite the challenging financial environment, the FT sector is operating in surplus and the surplus has increased year on year since 2009/10.
- As margins have been falling since 2008/9, this growth in surplus has been driven by growth in the number of FTs and higher levels of activity.
- Cash balances have continued to grow due to rising surpluses, new FT authorisations and slippage in capital expenditure

Regulatory performance

Governance risk ratings

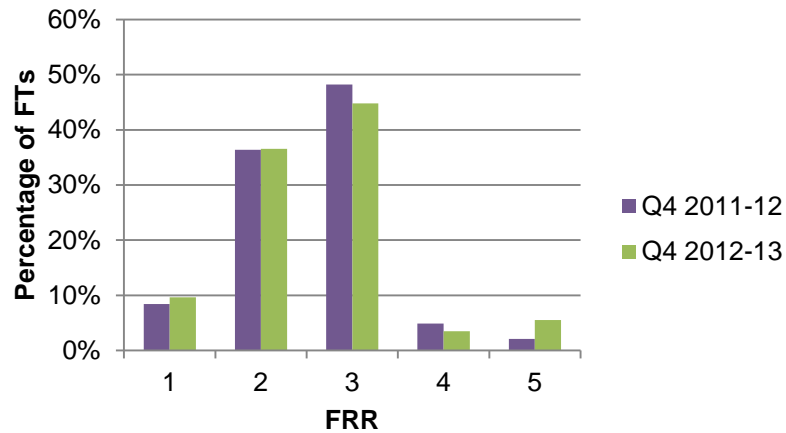
Governance Risk Ratings

As at 31 March:

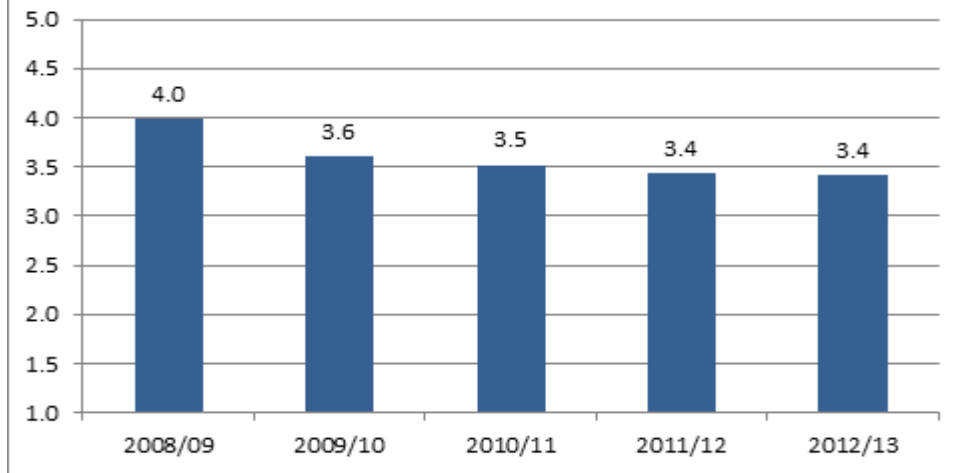


- Over the last two years there has been a deterioration in FT Governance Risk Ratings with an increase in Red rated trusts, an increase in Amber-Red and Amber-Green rated trusts, and a decrease in Green rated trusts.
- This is primarily due to an increase in target breaches (relating to service delivery (largely A&E) and infection control) and an increase in FTs being found in significant breach of their Terms of Authorisation for both financial and governance concerns.
- Acute trusts have the poorest GRR profile, with 31% of Acutes being Red rated.
- The Midlands has the poorest regional GRR profile, incorporating 50% of all Red rated trusts despite only accounting for 26% of the total number of FTs. London has the best regional GRR profile, partly due to a lower proportion of Acute trusts compared to other regions.

Financial Risk Ratings

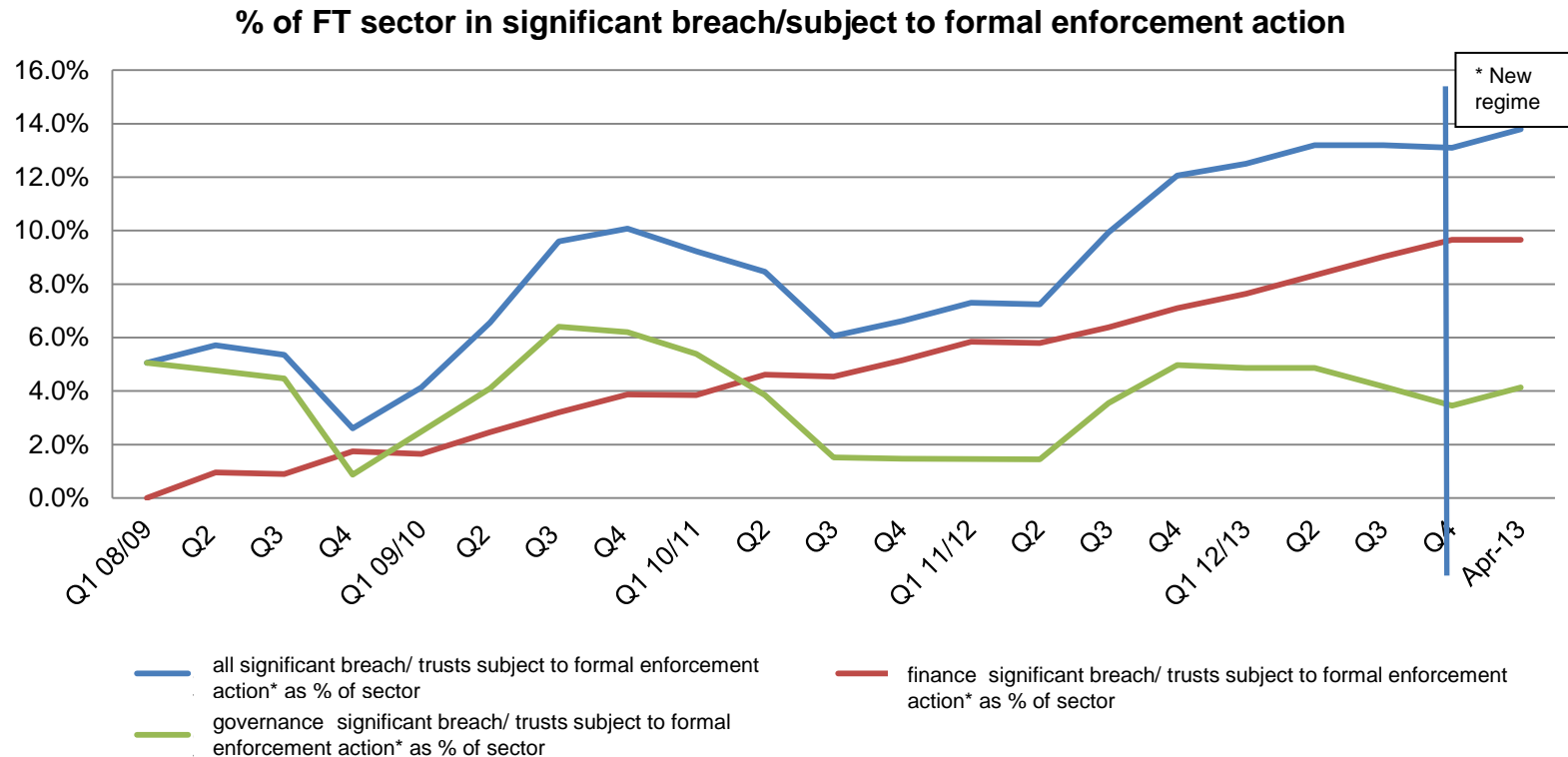


Year End Average FRR



Further information regarding the finances of individual foundation trusts is available to Board members as a confidential annex.

Significant breach analysis (1/2)



- The number of FTs in significant breach has risen over the last few years. This is due to:
 - a progressive increase in trusts found in significant breach due to financial issues, resulting from the financial pressures in the system;
 - a fluctuating number of trusts found in significant breach due to governance issues, partly as a result of quality problems identified by CQC and partly as a result of failure to address target performance issues.

* With effect from 1 April 2013 the Terms of Authorisation were replaced by the Provider Licence.

Significant breach analysis (2/2)



The following trusts were taken out of significant breach during 2012/13:

- Blackpool Teaching Hospitals NHS Foundation Trust: returned to compliance having implemented a turnaround plan and demonstrated improved financial performance.
- Gloucestershire Hospitals NHS Foundation Trust: returned to compliance following substantial improvement in the management of its A&E department.
- James Paget University Hospitals NHS Foundation Trust: removed from breach having implemented a governance turnaround plan and demonstrated improvements in risk management.
- Wirral University Teaching Hospital NHS Foundation Trust: returned to compliance having significantly improved its management of waiting times for patients needing routine surgery.
- Cambridge & Peterborough NHS Foundation Trust: returned to compliance having implemented significant improvements in quality governance and Board governance.

Monitor's use of regulatory powers during 2012/13

Mid Staffordshire

- A Contingency Planning Team (CPT) was appointed in September 2012 who found the trust to be clinically and financially unsustainable. Monitor appointed a Trust Special Administrator (TSA) in April 2013. The TSA will commence a public consultation on a proposed solution for the trust at the end of June 2013.

Peterborough & Stamford Hospitals

- Following consistent delivery of an FRR 1, the Trust was not considered able to deliver a turnaround plan to return to financial sustainability. A CPT was appointed in February 2013 to develop options to address the Trust's financial issues. The CPT will report to Monitor in June/July 2013.

Bolton

- Monitor used its Section 52 powers to intervene in August 2012 following a significant deterioration in financial performance. Monitor required the Trust to appoint David Wakefield as interim Chair, appoint a turnaround director and appoint external advisors to develop a financial recovery plan.

Sherwood Forest

- Monitor used its Section 52 powers to intervene in October 2012 following a significant deterioration in the Trust's financial performance. Monitor required the appointment of an interim Chair and CEO and the development of a turnaround plan.

Other regulatory action

In addition, Monitor found the following Trusts to be in significant breach of their Terms of Authorisation during 2012/13:

- Rotherham was found in significant breach following a deterioration in its financial position
- RNHRD was found in breach following delivery of an FRR 1 throughout 2012/13 and a forecast deficit for 2013/14.
- Kettering was found to be in significant breach following sustained failure to meet the A&E 4 hour target and deterioration in its financial position.
- Cambridge University Hospitals was assessed to be in significant breach following sustained target breaches, a deterioration in its financial position and concerns over quality ('never events').
- Stockport was found to be in significant breach for failure to meet the A&E 4 hour target and weaknesses in its governance arrangements.

CQC WARNING NOTICES ISSUED DURING 2012/13			
Date	Foundation Trust	Reason	Cleared/outstanding
Apr-12	James Paget	Failure to meet CQC moderate concerns for care and welfare of people who use services	Cleared
Apr-12	Black Country	Concerns over safety and suitability of premises and supporting staff at Penn Hospital	Cleared
Jul-12	Basildon	Concerns over care and welfare of people who use services, and concerns over assessing and monitoring the quality of service provision	Cleared
Oct-12	Bristol	Concerns over staffing in paediatric HDU	Cleared
Jan-13	Basildon	Concerns over quality governance	Outstanding

3 warning notices have been issued since 31 March 2013:

- Monitor took enforcement action against Dorset Healthcare after the CQC issued a warning notice against Blandford Hospital for outcomes 4 (care and welfare) and 13 (staffing). Monitor found the trust to be in breach of its licence conditions in April 2013 and enforcement undertakings require the trust to return to full CQC compliance and to commission an external review of governance.
- Kettering has had a warning notice put in place by CQC reflecting the A&E concerns Monitor was already acting on.
- Calderdale & Huddersfield has had a warning notice issued due to concerns about clinical record keeping. Monitor is awaiting the outcome of follow up work by CQC before concluding on the next regulatory steps.
- All trusts that carried enforcement notices over from 20011/12 subsequently had their notices lifted.

FRR	Financial Risk Rating
GRR	Governance Risk Rating
EBITDA	Earnings before interest, tax, depreciation and amortisation
CPT	Contingency Planning Team
TSA	Trust Special Administrator
CQC	Care Quality Commission
FT	Foundation Trust
RTT	Referral to treatment
A&E	Accident and Emergency
PDC	Public Dividend Capital
WTE	Whole time equivalent