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COMMENT

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Assessing the effectiveness of trust boards

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ABSTRACT

This article explores the effectiveness of NHS trust boards, how they can be assessed and on what basis. The author is a governance specialist with considerable experience of advising directors in the health sector. He looks at types of trust board, describes types of evaluation, and considers the nature of effectiveness in the 21st century NHS.

KEYWORDS: Board, evaluation, foundation trust, Monitor, CQC, director, NED, leadership

Introduction

In an era when there has never been greater scrutiny of the NHS, much of the focus falls on the performance of the NHS trust board. These sit at the head of large, highly complex organisations with responsibility for managing expensive

assets, large numbers of employees and highly complex logistics and supply mechanisms. So how effective can these boards be? What are the best ways of assessing them and what should be the real measures of effectiveness?

Let us consider the context within which boards operate. They have existed for many years but only in the past 25 years¹ have they started to resemble those of commercial organisations, with chief executives replacing hospital secretaries, and non-executive directors (NEDs) and chairs complementing the executive directors. In parallel, there has been a significant increase in governance requirements again strongly resembling the UK Corporate Governance Code, which when all is working well, can be used as a measurement of effectiveness in conjunction with a performance rating regime, covering all aspects of a trust's operational activity.

Foundation trust status

So far, so good! However, the system becomes more complex as only 60% of all NHS trusts have achieved foundation status (foundation trusts (FTs)). This status indicates that they have achieved a high standard of financial and clinical quality,

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allowing them to operate with more independence,² with the remaining trusts in programmes designed to enable them to achieve such status in their own right or eventually combine in some way with an existing FT. To gain foundation status the trust has to demonstrate highly developed governance systems, both clinical and organisational, and be scrutinised in a complex programme of assessment by the regulator Monitor. The FT chief executive officer (CEO) is an accounting officer (to parliament), and the directors on each FT board are appointed using the FT's own powers, vested in the chair, NEDs and governors. FTs have greater autonomy from the NHS and the secretary of state, enjoy more autonomy and indeed have their own unique legal identity as public benefit corporations. It follows that the FT board is the most evolved in the NHS, uniquely overseen by Monitor in respect of their governance, which also acts as economic regulator for all NHS trusts. Non-FTs have boards that look similar but are less autonomous, with NEDs selected by the Trust Development Authority (TDA), and CEOs who are accountable officers (to the secretary of state) and are overseen by the TDA. All trusts are regulated by the Care Quality Commission (CQC) in terms of their clinical effectiveness.

NHS boards all operate a system of individual and collective responsibility, although liability is greater for FT directors. The directors of both types of trust have a range of duties which look similar to their commercial counterparts (whose duties are set out in the Companies Act 2006, which clearly inspired those newer duties outlined in the Health and Social Care Act 2012).

Types of board assessment

So how is the functionality of trust boards assessed? As with commercial organisations there is a requirement for an annual programme of board, board committee and individual director evaluation. This can be conducted internally, or facilitated or delivered completely by an external organisation. External evaluation is recommended every third year. In 2014, the CQC, Monitor and the TDA set out their aligned view of what a well-led organisation should look like, with recommendations of which external evaluations of trust and FTs should be performed in accordance with this framework.³ The well led framework has replaced the quality governance framework (QGF) and the board governance assurance framework (BGAF), which are now effectively incorporated within it.

Needless to say, external evaluation is a growth industry with providers taking many forms, from consultancy businesses to recruitment consultants. Their approaches vary enormously, from accountancy-inspired quantitative assessment, through human resources-based behavioural assessment, to straightforward questionnaire-style examinations which may be qualitative and/or quantitative in nature. Much depends on the individual board's preference, which is intrinsically linked to self-confidence and the extent to which they feel under pressure or scrutiny. Many evaluations seek the views of interested parties, both internal and external to the trust, which can be useful in holding a mirror to the board. For FTs the governors are playing an increasingly central role; for example by holding NEDs to account for the performance of

the board and conducting annual appraisals for them and their chairs.

Many of the approaches described seem safe and uncontroversial, but this may not always be desirable to create conditions for change. Boards should ensure that they have a say in the process, rather than sitting back and being 'done to' so that there is a good chance they will then be open to acting on the results that emerge. Do they know who will actually carry out the work, have they set out clear objectives, will the report be confidential to them so they feel free to speak out, and can they control the results? Boards should look at recent decisions they have come to, both easily and with difficulty, to see how well the debate was supported, how effective the information that was provided proved to be and how the decisions were recorded. At a time where boards are starting to confront assessments of what constitutes fit and proper regulation for directors, getting this latter point right becomes imperative.

Beyond evaluation there are other forms of board assessment. Here the regulators dominate, requiring quarterly reporting to either Monitor or the TDA, or the CQC's announced and surprise inspection schedule. Where whistles are blown, complaints made, performance falters or incidents occur, there are powers of intervention that can be applied. The casualty list for directors of trust boards is high (especially CEOs and chairs) and accountability is frequently enforced in this most direct of ways.

Board effectiveness

So how effective can a trust board be? The pressure is continuous, and while directors can rise to a board appointment by virtue of their professional skill set, the very different trade of working in a boardroom (challenging and supporting colleagues in equal measure) and learning how to direct the activities of the trust may take time to acquire. The quality of NEDs on trust boards ranks among the highest in the land, yet they can often be cautious, and sometimes inhibited by the potentially life and death consequences of their decisions. Many directors also reasonably struggle in the current environment of increasing demand and pressure on resources, and have significant choices to make. It is a familiar maxim that you can please Monitor with economic performance or CQC with clinically safe performance, but it is hard to please both. The most recent interventions in some of the most familiar and respected trusts in the country certainly bear this out.

Once assessment has taken place the work then begins for the board. How best should they respond, what lessons can be learned? What if they disagree with the evaluation and how should they publicise the results? In the author's experience, boards can take at least a year to implement what may be complex and bureaucratic action plans post evaluation. Often this is not merited. Indeed, a brief period of reflection, culminating in a planned discussion where all can consider the implications of what has been concluded, may be all that is required. What must happen is that the board should work its external advisers hard to get what it needs (in itself this requires some careful deliberation) rather than what the evaluator wants to give.

So what then should constitute an effective board? It is hard to measure this absolutely and there is no single formula for success. Much depends on effective chemistry of the people around the table. When it works, the whole board must be more than the sum of the contributions of individual directors. Moreover, leadership needs to be exhibited by all those involved which also involves the willingness to follow as well as lead. The single best measure, and the hardest, is to quantify the effect the board is having on the culture and behaviour of the organisation. Are actions carried out in the board's name or are the staff interpreting the messages themselves because they are not clear? Many of the most significant collapses in the financial services sector have occurred because of such behaviour.

The executive/NED relationship

Effectiveness can also hinge on the relationship between the executive directors and NEDs. Loose interpretation of regulatory intent, such as the need to ensure that NEDs challenge their executive colleagues, can often create significant tensions for no obvious gain. Induction plays a key part in effectiveness, as does openness between directors – how many boards have a transparent conversation about succession planning in the current climate?

Succession also brings another problem. How often do we see a board assessed (perhaps for FT authorisation) after which the composition changes rapidly over time? Such shifts in board capability are rarely measured or monitored but remain a vital statistic to understand.

The link between the board's oversight and delivery of strong performance has always been controversial, as any connection can be tenuous. Good boards are rarely surprised by events, and regulators will always act to scrutinise those which cannot explain deviation from predicted performance. Good boards

show their true colours in the event of a crisis, and observing a reservation of capacity for that eventuality is a plus.

Summary

In summary, there are more effective and less effective trust boards, which can be measured and evaluated in many ways, but the perspective and context in which the evaluation is carried out must first be understood. There will often be strong differences of perception internally and externally, and many of these are forged in the strong glare of the media and political interest. A regulator's sense of a good outcome (and over what timeframe) will not always match that of the trust's staff or even patients. Trusts can sometimes fail even after their boards have been replaced. Above all, boards need to have a steady nerve, be in it for the long term, and have a clear sense of their own values and the direction in which they are going. ■

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