

# GOVERNOR'S HANDBOOK

Version 2

Striving for Perfect Care

# GOVERNOR'S HANDBOOK

## Further information about this document:

Document name	<b>Governor's Handbook</b>
Document summary	<b>This document provides information to members of the Council of Governors about their role and responsibilities, together with procedures and terms of reference to help the Council discharge its responsibilities</b>
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Published by	<b>Mersey Care NHS Foundation Trust Trust Offices V7 Building Kings Business Park Prescot Merseyside L34 1PJ</b>
Copies of this document are available from the Author(s) and via the trust's website	<b>Trust's Website <a href="http://www.merseycare.nhs.uk">www.merseycare.nhs.uk</a></b>
To be read in conjunction with	<b>Mersey Care's Foundation Trust Constitution</b>
<b>This document can be made available in a range of alternative formats including various languages, large print and braille etc</b>	

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## Version Control:

		Version History:
Draft Version 1	Tabled for discussion at Council meeting on 6 May 2016	4 May 2016
	Requested approval at the Council meeting on 16 June 2016	16 June 2016
Version 2	Requested approval at the Council of Governors meeting on 25 October 2017	25 Oct 2017

**SUPPORTING STATEMENTS** – this document should be read in conjunction with the following statements:

### **SAFEGUARDING IS EVERYBODY'S BUSINESS**

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### **EQUALITY AND HUMAN RIGHTS**

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FRED A principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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## **1 PURPOSE OF THIS HANDBOOK**

- 1.1 This handbook is intended as a reference document for governors. As such it contains a range of different papers which help explain to governors how they may discharge their responsibilities. With the exception of the code of conduct for governors, this handbook will be developed jointly between the governors and the trust secretary (and the corporate governance team). The handbook has been designed so that individual sections may be updated and replaced where necessary – as such each page has a header which clearly describes the contents of that particular section whilst the footer includes a version number.
- 1.2 In line with good practice for all corporate governance arrangements, the handbook will be subject to an annual review led by the trust secretary.

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## **2 CODE OF CONDUCT FOR GOVERNORS**

### **INTRODUCTION**

- 2.1 This code of conduct sets out the standards and behaviour that Mersey Care NHS Foundation Trust (hereafter referred to as “Mersey Care”) expects from the council of governors (individually and collectively) when acting on behalf of, or representing, the Trust.
- 2.2 This code of conduct should be read in conjunction with:
- (a) the NHS foundation trust’s constitution and licence
  - (b) the NHS foundation trust’s policy and procedures covering conflicts of interest, anti-money laundering and anti-bribery, the declaration, acceptance and refusal of gifts and hospitality
  - (c) NHS Improvement’s (formerly Monitor) NHS Foundation Trust Code of Governance, and Your statutory duties: A reference guide for NHS foundation trust governors;
  - (d) the NHS Constitution.

### **WHY WE HAVE A CODE OF CONDUCT**

- 2.3 The board of directors of Mersey Care has ultimate responsibility for all actions carried out by staff and committees throughout the Trust’s activities. This responsibility includes the stewardship of vast public resources and the provision of healthcare services to the community.
- 2.4 The board of directors is therefore determined to ensure the organisation inspires confidence and trust amongst its patients, members, staff, partners, funders and suppliers by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the Trust.
- 2.5 The council of governors has an integral role in supporting the board of directors in promulgating those values and visions to members, patients and the public, and embedding them within the work of the Trust.
- 2.6 The constitution of Mersey Care makes provision for governor elections, the appointment of members, practice and procedure of governors, and ultimately the removal of governors. This code of conduct complements the Trust’s constitution.

### **APPOINTMENT AND TENURE**

- 2.7 The council of governors is comprised of representatives elected from, and by, the service user and carer membership, the public membership and the staff membership, as well as those appointed from local partner organisations such as a local authority, a local voluntary organisation, a local clinical commission group, and a university which trains healthcare staff. Appointments run for three years, after which period the governor may be able to stand for re-election. A governor must be a member of the foundation trust in order to stand for election or appointment.

- 2.8 The council of governors represent the interests of all NHS foundation trust members, not just the constituency that elected, or external body that appointed, individual governors.

## **INDUCTION AND TRAINING**

- 2.9 In order for governors to be effective in performing their legal duties and responsibilities, it is essential that individual governors, and the council as a whole, are aware of the nature of the work of the Trust and its operating environment. In order to prepare and support governors, Mersey Care will provide a comprehensive induction and ongoing development opportunities. Individual governors are invited to speak to the chairman and/or trust secretary about any further information or training needs.
- 2.10 Governors are expected to attend induction and training programmes, given reasonable notice, in line with any individual or collective requirements identified by the governor or the periodic council performance appraisal.
- 2.11 The council of governors are expected to undertake a performance appraisal exercise to assess the skills set available to the Trust and to identify areas for future development and training. This process will be led by the chairman.

## **ROLE AND FUNCTION OF GOVERNORS**

- 2.12 The Trust will provide governors with guidance outlining their specific role and responsibilities. In fulfilling their general roles and responsibilities individual governors must:
- (a) adhere to the Trust's rules and policies, including the constitution, standing orders and standing financial instructions, and support its objectives, in particular those relating to NHS foundation trust status and developing a successful Trust;
  - (b) act in the best interests of the Trust at all times;
  - (c) contribute to the working of the council of governors in order for it to fulfil its role and functions as defined in the constitution;
  - (d) recognise that their role is a collective one;
  - (e) support and assist the chief executive, as the 'accounting officer' (i.e., the Chief Executive), in his/her responsibility to answer to NHS Improvement, commissioners and the public.

## **CONFLICTS OF INTEREST**

- 2.13 The council has a legal obligation to act in the best interests of Mersey Care and in accordance with the Trust's constitution and licence, and to avoid situations where there may be a potential, real or perceived, conflict of interest.
- 2.14 Governors should not use their position for personal advantage or seek to gain preferential treatment. Governors should be aware of, and act in accordance with, the Trust's policy and procedures on identifying and managing conflicts of interest.



- 2.15 Upon appointment, and at least annually, governors are invited declare their interests on an online system (MES Declare). The system must also be updated within 28 days where a material change occurs. A register of interests will be maintained by the trust secretary, and will be made available to the public, in line with the Trust's standards of business conduct policy.
- 2.16 Failure by a governor to declare an interest, real or perceived, could result in the complaints process being instigated by the Trust. Depending on the circumstances and severity of the conflict, this may result in the governor being removed from office.

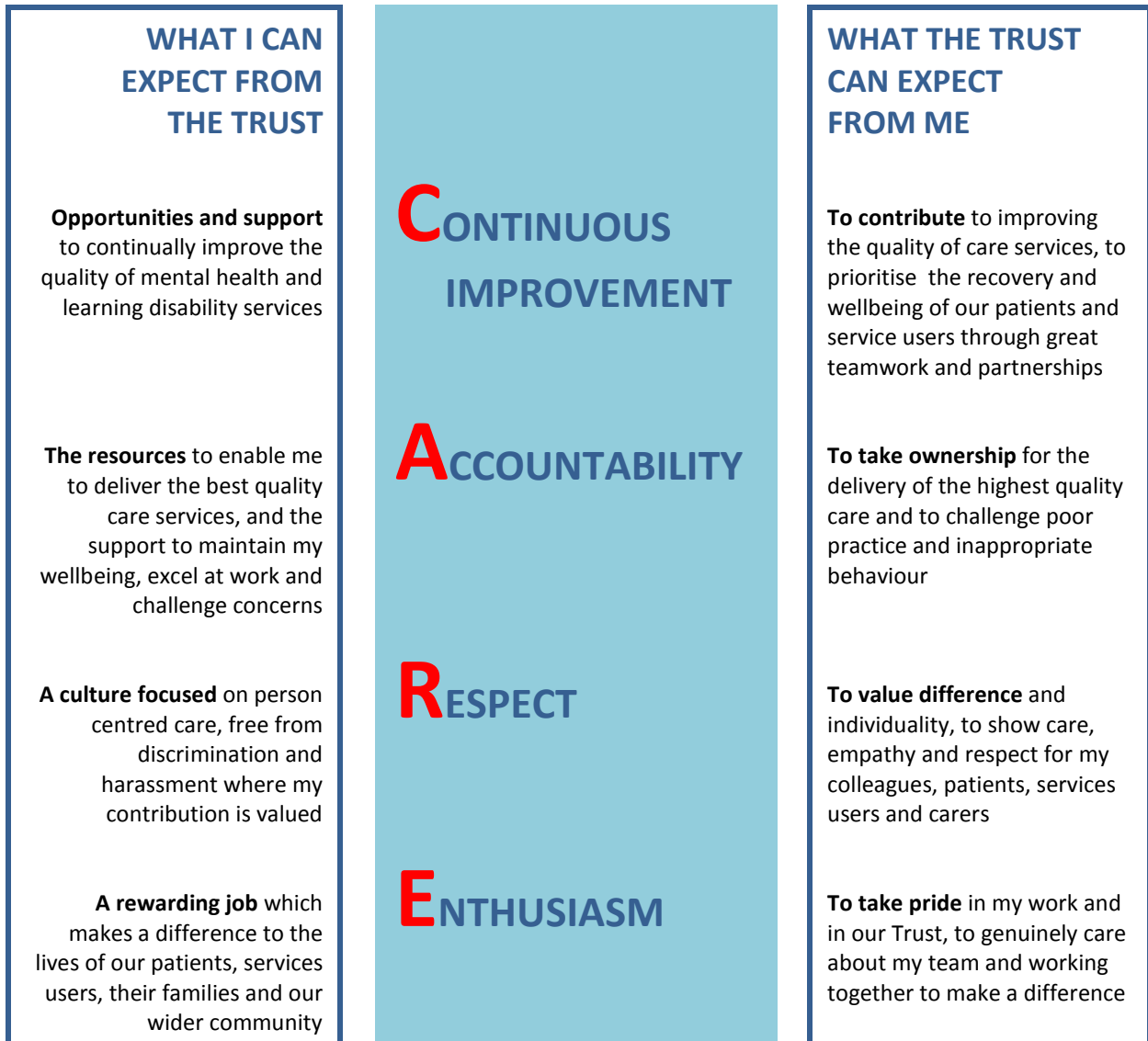
## **STANDARDS OF CONDUCT**

- 2.17 Governors are required to adhere to the highest standards of conduct in the performance of their duties. This code of conduct respects and endorses the seven principles of public life promulgated by the Nolan Committee and all governors are encouraged to perform their duties in accordance with them. The seven principles are:
- (a) selflessness;
  - (b) integrity;
  - (c) objectivity;
  - (d) accountability;
  - (e) openness;
  - (f) honesty;
  - (g) leadership.
- 2.18 In performing their roles and responsibilities, governors are encouraged to:
- (a) value fellow governors, even when there are differences in opinion;
  - (b) be mindful of conduct which could be deemed to be unfair or discriminatory;
  - (c) conduct themselves in a manner which reflects positively on the Trust when attending external meetings or any other events;
  - (d) seek to ensure that the membership of the constituency, or partner organisation, that elected/appointed them are properly informed and that their views are fed back to the Trust; and
  - (e) take account of the CARE standards which are included in the Trust's staff charter (see overleaf)

**STAFF CHARTER**

Care has always been at the heart of everything we do. But our ambition is now to deliver Perfect Care and become the world's leading organisation in mental health, addition and learning disabilities. Our Staff Charter is designed to help guide us there.

Created by our staff, for our staff, and built around the needs of our service users, patients and carers, it highlights what's expected of you and what you can expect from the Trust in return; Perfect Care. The future of care is in our hands, let's work together to ensure this is world class



2.19 All governors are expected to understand, agree and promote the Trust's equality and human rights policy in every area of their work. The council's activities should not prejudice any part of the community on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

2.20 Any actual or perceived prejudicial action, views or comments shall be investigated and dealt with in line with the complaints procedure and could result in the governor being removed from office.

## **STAKEHOLDER ENGAGEMENT**

- 2.21 Governors are accountable to the membership. In order to demonstrate their accountability governors are encouraged to attend events and provide opportunities to meet, talk and listen to the members, partner organisations they represent, and the public, in order to best understand their views and concerns.
- 2.22 Governors should be fully aware of their representative functions and should not become personally involved in patient or public matters that ought to rightly be handled by the appropriate member of Trust staff. Governors are advised to act as a conduit for forwarding public comments and concerns to the appropriate staff member, when presented with a complaint from a member, patient or the general public.

## **VISITING THE TRUST**

- 2.23 In fulfilling their core duties and responsibilities, governors will be expected to visit Trust property. For activities other than attending council meetings or member events organised by the Trust, governors are requested to follow the procedure below:
- (a) for group visits, arrangements will be discussed and agreed between the chair and trust secretary, in liaison with appropriate directors and managers;
  - (b) for individual visits, the governor should speak directly to the trust secretary.
- 2.24 The Trust will make every effort to accommodate the request of the governor, but may not always be able to agree to specific dates, times or site visits.
- 2.25 Personal, non-governor related visits to Trust property are not covered by this procedure

## **EXPENSES**

- 2.26 The position of governor is unremunerated (unpaid), though reasonable out-of-pocket expenses are paid. Please refer to Mersey Care's policy on governor expenses and how to claim for reimbursement for costs incurred on behalf of the Trust.
- 2.27 Further information about expenses can be gained by speaking directly to Corporate Governance Team.

## **MEETINGS**

- 2.28 Governors have a responsibility to attend meetings of the council of governors. When this is not possible they should submit an apology to the trust secretary in advance of the meeting. Governors are expected to attend for the duration of each meeting.
- 2.29 Absence from the council of governors meetings without good reason established to the satisfaction of the council could result in the individual governor being removed from office.

- 2.30 Non-attendance three consecutive meetings will result in the governor being deemed to have resigned their position, unless the grounds for absence are regarded as satisfactory by the council of governors.
- 2.31 If a governor would like to submit an item for inclusion in the council's agenda, they should forward their request to the trust secretary at least [14] working days before the meeting. Late items of an urgent nature may be added to the list of any other business, at the discretion of the chairman, in discussion with the trust secretary.
- 2.32 Meetings of the council shall be held in public, and in accordance with the standing orders. The council of governors may decide to hold all or part of a meeting in private in such circumstances where confidential or sensitive information needs to be discussed.

### **BOARD AND COUNCIL INTERACTION**

- 2.33 The council of governors may invite any or all of the board of directors to attend council meetings. Such invitations will be agreed by the chairman and facilitated by the trust secretary.
- 2.34 Governors are reminded that the council, board of directors and management have a common purpose: the success of the Trust and the provision of safe and high quality care to the community. As such, governors are encouraged to only use their powers of veto and removal in those circumstances where other forms of discussion and mediation have been used and not proven fruitful.
- 2.35 Governors should treat the Trust's directors, other employees and fellow governors with respect and in accordance with the Trust's policies.

### **MEDIATION**

- 2.36 A mediation process is available to the council, and individual governors, for use when there has been a breakdown of communication or trust between the governors and directors. Further information should be requested from the chairman or trust secretary.
- 2.37 Before the mediation process is instigated, the chairman, lead governor and / or senior independent director (as appropriate) should have met in an attempt to resolve the matter.

### **NHS IMPROVEMENT**

- 2.38 In general, formal contact with the NHS Improvement will be via the chairman, chief executive or trust secretary, as appropriate.
- 2.39 This does not prevent the council nominating another governor to act as the lead governor for communications with the regulator in such instances when the usual communication line is inappropriate.

## **CONFIDENTIALITY**

- 2.40 All governors are required to respect the confidentiality of the information they are exposed to as a result of their membership of the council. As a member representative, sometimes dealing with difficult and confidential issues, governors are required to act with discretion and care in the performance of their role.
- 2.41 Governors should only speak to the media with the express permission of the chief executive or the trust secretary. In situations concerning potential whistleblowing matters, governors are encouraged to adhere to the Trust's raising concern at work policy to resolve the matter, in the first instance.
- 2.42 Any allegations of breaches of confidentiality will be investigated under the complaints policy and could result in the removal of any governor involved in such a breach. This does not include protected disclosures as defined in the Public Disclosure Act 1998. Further information regarding whistleblowing can be found in the Trust's raising concern at work policy or by speaking to the trust secretary.

## **CEASING TO BE A GOVERNOR**

- 2.43 Governors must continue to comply with the qualifications required to hold public office throughout their period of tenure, as defined in the willingness to serve declaration. Any changes that would render the governor ineligible to serve must be forwarded to the trust secretary.
- 2.44 As previously mentioned, failure to attend three consecutive meetings may result in the governor being deemed to have resigned their position unless the grounds for absence are deemed to be satisfactory by the council of governors.
- 2.45 A governor may resign their office ahead of their tenure by writing to the trust secretary. Depending on the reasons and circumstances of the resignation, the chairman may decide to formally record those particulars in the minutes of the next council meeting.
- 2.46 Governors, upon resignation, will be provided with a an Exit Questionnaire to seek their feedback on the operation of the Council of Governors.

## **CODE NON-COMPLIANCE**

- 2.47 In addition to this code of conduct, a complaints policy operates to cover allegations made against governors that appear to breach the spirit of the code or specific conditions of service. Ideally any penalties for non-compliance would never need to be applied.
- 2.48 Non-compliance with the code of conduct may result in action being taken as follows:
- (a) where misconduct takes place, the chairman may be authorised to take such action as may be immediately required, including the exclusion of the person concerned from a meeting;

- (b) where such misconduct is alleged, it shall be open to the council of governors to decide, by simple majority of those in attendance, to lay a formal charge of misconduct. In such instances it will be the responsibility of the council of governors to:
  - (i) inform the governor in writing of the nature of the allegation of the breach, detailing the specific action or behaviour considered to be detrimental to the Trust, and inviting and considering their response within a defined timescale,
  - (ii) inviting the governor to address the council in person if the matter cannot be resolved satisfactorily through correspondence,
  - (iii) deciding, by simple majority of those present and voting, whether to uphold the charge of the breach and conduct detrimental to the Trust,
  - (iv) impose such sanctions as shall be deemed appropriate. Sanctions will range from the issuing of a written warning as to the governor's future conduct and consequences, and the removal of the governor from office;
- (c) where the council cannot agree on a course of action in a situation that is deemed detrimental to the Trust, the Trust has the power to remove the governor.

2.49 Further information regarding any aspects of this code of conduct can be requested from the trust secretary.

### 3 ACCOUNTABILITY FRAMEWORK FOR THE DISCHARGE OF COUNCIL OF GOVERNOR STATUTORY DUTIES AND RESPONSIBILITIES

#### INTRODUCTION

- 3.1 The accountability framework outlines each of statutory and governance roles of the council of governors and for each role explains
- (a) why the council needs to do this;
  - (b) how the council can discharge this role;.
  - (c) when it needs to be done; and
  - (d) where appropriate, what information is required to support the council

Role of CoG (What)	Appoint or re-appoint the Chair of the Board of Directors
Purpose (Why)	The Chair is responsible for the leadership of the Board of Directors and hence the overall direction and success of the Trust. The effectiveness of the Council of Governors in holding the Board of Directors to account depends on a good working relationship with the Chair. Governors therefore have a responsibility to ensure that the Chair has the appropriate skills and experience required to lead the Board of Directors and the Council of Governors.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Approve</b> the Procedure for the Appointment of the Chair of the Board of Directors.</li> <li>2) <b>Establish</b> a Nominations Committee to be chaired by the Chair of Board of Directors (or Deputy/SID where the appointment of the Chair is being considered) and to include one appointed governor and two elected public governors. The work of the Committee will be supported by the Chief Executive, the Trust Secretary and an HR specialist.</li> <li>3) <b>Delegate</b> to the Nominations Committee the establishment of an appointments procedure which is transparent, rigorous, objective, fair and in line with natural justice for the recruitment and selection of the Chair of the Board of Directors.</li> <li>4) <b>Delegate</b> to the Nominations Committee the responsibility to identify a shortlist of appointable candidates and make a recommendation for appointment in line with the procedure outlined in <b>Section 4A</b>.</li> <li>5) <b>Consider</b> and, if thought fit, <b>approve</b> the appointment of a Chair on the recommendation of the Nominations Committee subject to a vote carried by the majority of the Council of Governors attending the meeting.</li> </ol>
	.../continued

Role of CoG (What)	Appoint or re-appoint the Chair of the Board of Directors (cont'd)
(When)	On the resignation, retirement or removal of the existing Chair or within six months of the expiry of the current term of office for the existing Chair of the Board. A new Chair of the Board should be appointed in a timely manner to ensure full and meaningful handover from the existing Chair.
Information needs	<p><b>Council of Governors</b></p> <ul style="list-style-type: none"> <li>• Approved procedure for the Appointment of the Chair of the Board of Directors for <b>information</b>.</li> <li>• Up to date Terms of Reference for the Nominations Committee for <b>information</b>.</li> <li>• Assurance Report from the Nominations Committee confirming that the procedure has been properly applied leading to a recommendation for approval for <b>assurance</b>.</li> </ul> <p><b>Council of Governors Nomination Committee</b></p> <ul style="list-style-type: none"> <li>• Report on the performance of the current Chair in the preceding review year(s) and an update since the last review date (in circumstances where the Committee is considering the re-appointment of the current Chair of the Board of Directors) for <b>information</b>.</li> <li>• Recommendation from the Board of Directors on the generic and specific competencies/qualities/background and experience necessary in a Chair for the next stage of the organisations development for <b>information</b>.</li> <li>• Advice and recommendation from the Board of Directors in relation to an appropriate role description for the Chair of the Board of Directors for <b>information</b>.</li> </ul>



Role of the CoG's (what)	Remove the Chair of the Board of Directors
Purpose (Why)	The performance of the Chair of the Board of Directors has a significant effect on the overall performance and reputation of the Trust. Where the actions or omissions of the Chair of the Board of Directors could lead to a deterioration in either performance or reputation, the Council of Governors has a responsibility to take appropriate action whilst also ensuring a fair and measured response
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Approve</b> a procedure for the resolution of disputes and concerns between the Board of Directors and the Council of Governors.</li> <li>2) <b>Approve</b> a procedure for the instigation of a Vote of No Confidence in the Chair of the Board of Directors</li> <li>3) <b>Delegate</b> to the Nominations Committee the responsibility to investigate and consult widely on the circumstances leading to the vote of no confidence and to produce a full report to a meeting of the Council of Governors convened for the purpose of considering the removal of the Chair (in line with the procedure outlined in <b>Section 4B</b>).</li> <li>4) <b>Receive</b> a motion to remove the Chair of the Board of Directors from a serving member of the Council of Governors supported by no fewer than ten serving Governors.</li> <li>5) <b>Consider</b> and if thought fit, <b>approve</b> the removal of the Chair of the Board of Directors subject to a vote of the Council of Governors carried by three quarters of the members of the whole Council.</li> </ol>
(When)	On receipt by the Trust Secretary of a motion for a vote of no confidence in the Chair of the Board of Directors or indication that such a vote is likely to be presented.
Information Needs	<ul style="list-style-type: none"> <li>• Recommendation from the Trust Secretary in relation to required changes in procedures to reflect good governance practice for <b>information</b>.</li> <li>• Report of the Nominations Committee into the investigation of circumstances leading to a vote of no confidence for <b>information</b>.</li> <li>• Assurance Report from the Nominations Committee confirming that the procedure has been properly applied leading to a recommendation for approval for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Appoint the other Non-Executive Directors
Purpose (Why)	Governors have a responsibility to ensure that Non-Executive Directors provide the independence and balance to the executive element of the Board of Directors and that they are both fit and proper persons to be appointed to a Foundation Trust having the appropriate qualifications, skills and experience to complement the Board and meet the likely challenges for the foreseeable future of the Trust.
Discharge of the role (How)	<p>The Council of Governors will:</p> <ol style="list-style-type: none"> <li>1) <b>Approve</b> the policy for the appointment of Non-Executive Directors</li> <li>2) <b>Establish</b> a Nominations Committee to be chaired by the Chair of the Board of Directors and to include one appointed governor and two elected public governors. The work of the Committee will be supported by the Chief Executive, the Trust Secretary and an HR specialist.</li> <li>3) <b>Delegate</b> to the Nominations Committee the establishment of an appointments procedure which is transparent, rigorous, objective, fair and in line with natural justice for the recruitment and selection of Non-Executive Directors.</li> <li>4) <b>Delegate</b> to the Nominations Committee the responsibility to identify a shortlist of appointable candidates and make a recommendation for appointment in line with the procedure outlined in <b>Section 4C</b>.</li> <li>5) <b>Consider</b> and, if thought fit, <b>approve</b> the appointment of the Non-Executive Director on the recommendation of the Nominations Committee subject to a vote carried by the majority of the Council of Governors attending the meeting.</li> </ol>
(When)	To fill a vacancy on the resignation, retirement or removal of an existing Non-Executive Director or within six months of the expiry of the current term of office for an existing Non-Executive Director.
Information Needs	<p><b>Council of Governors</b></p> <ul style="list-style-type: none"> <li>• Recommendation from the Trust Secretary in relation to changes to the procedure for the Appointment of Non-Executive Directors for <b>information</b>.</li> <li>• Up to date Terms of Reference for the Nominations Committee for <b>information</b>.</li> <li>• Assurance Report from the Nominations Committee confirming that the procedure has been properly applied leading to a recommendation for approval for <b>assurance</b></li> <li>• Confirmation that the Board of Directors meets the criteria that the majority of the Board are non-executive for <b>assurance</b>.</li> </ul> <p style="text-align: right;">.../ continued on the next page</p>

Role of the CoG's (what)	Appoint the other Non-Executive Directors (cont'd)
Information Needs (cont'd)	<p><b>Council of Governors Nomination Committee</b></p> <ul style="list-style-type: none"> <li>• Approved procedure for the appointment/re-appointment of Non-Executive Directors for <b>information</b>.</li> <li>• Report on the performance in the preceding review year and an update since the last review date of any Non-Executive Directors whose term of office is due to expire within the next six months and who has indicated their intention to stand for re-appointment for a further term of office for <b>information</b>.</li> <li>• Recommendation from the Board of Directors on the generic and specific competencies/qualities/background and experience necessary to complement the existing Board skill and experience base for the next stage of the organisations development for <b>information</b>.</li> <li>• Recommendation from the Board of Directors in relation to an appropriate role description for a Non-Executive Director for <b>information</b>.</li> <li>• Annual report of the Chair on the competency of the Board of Directors for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Remove the other Non-Executive Directors
Purpose (Why)	Non-Executive Directors form part of the board team and bring a unique set of skills and experience to bear in the decision making process. Any failure in performance individually or as part of the team by a Non-Executive Director could significantly impact the efficiency and effectiveness of the Board of Directors.
Discharge of the role (How)	<p>The Council of Governors will:</p> <ol style="list-style-type: none"> <li>1) <b>Approve</b> a procedure for the resolution of disputes and concerns between the Board of Directors and the Council of Governors.</li> <li>2) <b>Approve</b> a procedure for the instigation of a Vote of No Confidence in a named Non-Executive Director.</li> <li>3) <b>Delegate</b> to the Nominations Committee the responsibility to investigate and consult widely on the circumstances leading to the vote of no confidence and to produce a full report to a meeting of the Council of Governors convened for the purpose of considering the removal of the Non-Executive Director (in line with the procedure outlined in <b>Section 4D</b>).</li> <li>4) <b>Receive</b> a formal motion to remove the Non-Executive Director from a serving member of the Council of Governors supported by no fewer than ten serving Governors.</li> <li>5) <b>Consider</b> the report of the Nominations Committee and if thought fit, <b>approve</b> the removal of the Non-Executive Director subject to a vote of the Council of Governors carried by three quarters of the members of the whole Council.</li> </ol>
(When)	On receipt by the Trust Secretary of a motion for a vote of no confidence in a Non-Executive Director or indication that such a vote is likely to be presented.
Information Needs	<ul style="list-style-type: none"> <li>• Advice from the Trust Secretary in relation to required changes in procedures to reflect good governance practice for <b>information</b>.</li> <li>• Report of the Nominations Committee into the investigation of circumstances leading to a vote of no confidence for <b>information</b>.</li> <li>• Assurance Report from the Nominations Committee confirming that the procedure has been properly applied leading to a recommendation for approval for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Decide the remuneration and allowances, and other terms and conditions of office, of the Chair and other Non-Executive Directors
Purpose (Why)	It is the responsibility of the Governors to ensure that the Trust can attract and retain individuals of the right calibre and experience to serve on the Board of Directors in the capacity of non-executive directors (including the Chair). Remuneration, allowances and other terms and conditions of office are integral to this. In setting levels of remuneration and allowances Governors should strike the right balance between motivating and attracting the right candidates and ensuring value for money to the Trust.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Establish</b> a Nominations Committee of the Council of Governors to review and make recommendations to the full Council on the appropriate levels of remuneration, allowances and other terms office (in line with the procedure outlined in <b>Section 4E</b>).</li> <li>2) <b>Consider</b> the recommendations of the Nominations Committee and <b>approve</b> changes to existing levels of remuneration, allowances and terms of office or the introduction of new arrangements as appropriate.</li> </ol>
(When)	As required on the occurrence of a new appointment or change in the role, person specification or market conditions with an Annual review in May / June
Information needs	<p><b>Council of Governors</b></p> <ul style="list-style-type: none"> <li>• Advice from the Trust Secretary in relation to changes in good governance process relating to the determination of remuneration and other terms of office for Non-executive Directors, including the Chair for <b>information</b>.</li> <li>• Up to date Terms of Reference for the Nominations Committee for <b>information</b>.</li> <li>• Assurance Report from the Nominations Committee confirming that the Committee's Terms of Reference have been properly applied leading to a recommendation for approval for <b>assurance</b>.</li> </ul> <p><b>Council of Governors Remuneration Committee</b></p> <ul style="list-style-type: none"> <li>• Comprehensive independent review of Non-Executive Director (including the Chair of the Board of Directors) market rates of remuneration and associated terms including relevant benchmark information, as required but at least every three years for <b>information</b>.</li> <li>• Annual report from the HR department providing background information on relevant sector and benchmark cost of living increases for <b>information</b>.</li> <li>• Ad hoc reports from the Chair of the Board of Directors (or Deputy/Senior Independent Director in the case of the role of the Chair) relating to significant changes to individual or generic role descriptions/responsibilities or time commitment for Non-Executive Directors (including the Chair of the Board of Directors) for <b>information</b>.</li> <li>• Ad hoc reports from the Nominations Committee relating to identification of issues leading to inability/difficulties in the effective recruitment of Non-Executive Directors (including the Chair of the Board of Directors) for <b>information</b>.</li> </ul>

Role of the CoG's (what)	Approve the Appointment of the Chief Executive
Purpose (Why)	The Chief Executive leads the organisation and is responsible for ensuring the delivery of the strategy and operational performance as well as setting the tone and culture of the organisation. The identification of an appointable candidate is a matter for the Chair and Non-Executive Directors however the Council of Governors are required to approve the appointment to ensure that a fair and robust process has been followed which has resulted in the recommendation of a candidate capable of meeting the requirements of the role and serving the best interests of the Trust.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Consider</b> the report of the Board of Directors' Nominations Committee giving details of the process undertaken to identify an appointable candidate and how the relevant law and guidance has been incorporated into the process together with a firm recommendation from the Board of Directors for appointment of a candidate (in line with the procedure outlined in <b>Section 4F</b>).</li> <li>2) At a general meeting of the Council of Governors, <b>approve</b> the appointment of the proposed candidate as Chief Executive.</li> <li>3) In exceptional circumstances where the Council of Governors has valid reasons not to approve the proposed candidate, veto the appointment providing a <b>written report</b> to the Chair and Non-Executive Directors containing sound reasons (including legally sound) for withholding approval. [Note: It is incumbent on the Board of Directors and the Council of Governors to break any deadlock that may arise over subsequent attempts to approve a Chief Executive]</li> </ol>
(When)	At a full general meeting of the Council of Governors following the decision to appoint a new Chief Executive. It may be necessary to hold a special meeting of the Council to accommodate a timely appointment.
Information Needs	<ul style="list-style-type: none"> <li>• Report of the Board of Directors Remuneration Committee recommending an appointable candidate and providing assurance as to the process adopted in the recruitment exercise and adherence to the agreed procedures for <b>assurance</b>.</li> <li>• Details of the appointable candidates for <b>information</b>.</li> <li>• Report of the Trust Secretary containing appropriate legal advice in circumstances where the Council of Governors is minded not to approve the recommended appointment for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Appoint the Trust's Auditor
Purpose (Why)	The Auditor has statutory duties in auditing the accounts of the Trust. It is the responsibility of the Council of Governors to ensure that a suitably qualified and appropriately experienced individual or firm is appointed in order to effectively and efficiently discharge the responsibility, and that the performance of the Auditor meets the required standard of the Code of Audit Practice.
Discharge of the role (How)	<p>The Council of Governors will:</p> <ol style="list-style-type: none"> <li>1) <b>Approve</b> on the recommendation of the Audit Committee, the criteria for the appointing, re-appointing or removing auditors (in line with the procedure outlined in <b>Section 4G</b>).</li> <li>2) <b>Following</b> the completion of the annual audit, consider the Annual Report of the Audit Committee on the work of the Auditor and the level of fees charged with a view to receiving assurance on the performance of the Auditor.</li> <li>3) If required, <b>establish</b> a working group to liaise with the Audit Committee to agree the process for the nomination of a new auditor or the re-appointment of the existing auditor.</li> <li>4) <b>Approve</b>, on the joint recommendation of the Audit Committee and the Council of Governors working group, the appointment or re-appointment of the Auditor.</li> <li>5) <b>Approve</b>, on the recommendation of the Audit Committee, the terms of engagement for the appointed Auditor</li> <li>6) Ensure that the Trust <b>reports</b> on the appointment process and outcome in its Annual Report.</li> </ol>
(When)	Annually after completion of the annual audit or as appropriate on expiry of the current Auditor's term of engagement or where there are concerns about the performance of the Auditor which give rise to a recommendation to remove the Auditor.
Information Needs	<ul style="list-style-type: none"> <li>• Report of the Audit Committee recommending the appointment/re-appointment of External Auditor including assurance in relation to the process adopted for review/evaluation for <b>assurance</b>.</li> <li>• Annual Assurance Report of the Audit Committee of the Board of Directors for <b>assurance</b>.</li> <li>• Annual Report of the Auditor for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Remove the Trust's Auditor
Purpose (Why)	The Auditor has a significant independent role in the monitoring of performance of the Foundation Trust; hence the removal of the Auditor must be considered a very serious step. It is the responsibility of the Council of Governors to ensure that the removal of the Auditor is warranted and appropriate and that in doing so a rigorous and transparent process is followed.
Discharge of the role (How)	<p>The Council of Governors will;</p> <ol style="list-style-type: none"> <li>1) <b>Receive</b> a proposal to consider the removal of the Auditor (in line with the procedure outlined in <b>Section 4H</b>).</li> <li>2) <b>Require</b> the Audit Committee to investigate the performance of the Auditor and prepare a report on their findings for submission to the Council of Governors.</li> <li>3) <b>Consider</b> the report of the Audit Committee together with the response of the Auditor in relation to any allegations made.</li> <li>4) In a full general meeting of the Council of Governors, on the basis of the information received <b>call</b> a vote for the removal of the Auditor and, subject to the vote being carried by a majority of the Council of Governors present and voting, approve the removal of the Auditor.</li> <li>5) If carried <b>require</b> the Chair of the Board of Directors to notify NHS Improvement (Monitor) as required.</li> <li>6) Ensure that the Trust <b>reports</b> on the removal of the Auditor in its Annual Report.</li> <li>7) Immediately instigate the process for the appointment of a new Auditor.</li> </ol> <p><b>[Note: the Trust must have an Auditor appointed]</b></p>
(When)	As required on receipt by the Trust Secretary of a proposal to consider the removal of the Auditor.
Information Needs	<ul style="list-style-type: none"> <li>• Approved procedure for the appointment/removal of Auditors for <b>information</b>.</li> <li>• Report of the Audit Committee on the findings of the investigation into the circumstances leading to a proposal to remove the Auditor for <b>information</b>.</li> <li>• Report of the Auditor containing the response to the Audit Committees findings and recommendations for <b>information</b>.</li> <li>• Annual and exception reports of the Audit Committee for <b>assurance</b>.</li> </ul>



Role of the CoG's (what)	Receive the Trust's Annual Accounts. Auditors Report and Annual Report
Purpose (Why)	The Report and Accounts represent an account of the activity of the Trust in year and a statement on the financial status of the Trust as at the year end. The Council of Governors represent the interests of the membership as a whole and receive the Annual Report and Accounts to assure themselves as to the direction, progress and performance of the Trust and the continuing financial stability and viability of the organisation in order that they can be both a source of assurance and information to the members and also provide feedback to the Board of Directors.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) Provide <b>input</b> as required or requested by the Board of Directors into aspects of the Annual Report or the processes that underpin the statements made in the report (e.g.; Quality Report etc.).</li> <li>2) In a full general meeting, <b>receive</b> the Annual Report and Accounts, together with the Report of the Auditor, and a presentation from the Board of Directors outlining the financial highlights and key messages.</li> <li>3) Provide <b>feedback</b> to the Board of Directors as appropriate and clarify any points of understanding or fact.</li> <li>4) Use the understanding of the key messages and information contained in the Report and Accounts to <b>inform</b> stakeholders as opportunity allows.</li> </ol>
(When)	Following the end of the financial year but <b>not before</b> the Annual Report and Accounts have been laid before Parliament (normally July).
Information Needs	<ul style="list-style-type: none"> <li>• Governor key message reports to the Council of Governors relating to the work of sub Committees and working groups of the Council of Governors as they relate to the content of the Annual Report for <b>assurance</b>.</li> <li>• Quarterly financial updates from the Director of Finance for <b>assurance</b>.</li> <li>• Annual Report of the Audit Committee for <b>assurance</b>.</li> <li>• Quality Account and associated assurance report for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	To prepare and from time to time review the composition of the Council of Governors
Purpose (Why)	Subject to the Trusts Constitution and with the agreement of the regulator, the Council of Governors can determine the size of its own governing body which should be in line with good governance practice. The Council of Governors needs to determine the size and composition of its body to ensure that it is effective, efficient and of sufficient size to fulfil the requirements of its duties and represent a balanced and diverse view.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Establish</b> a working group to consider the optimum size and composition of the Governing body as part of a wider review of the effectiveness and efficiency of the Council of Governors.</li> <li>2) Subject to any requirements to amend the Constitution, <b>approve</b> any proposals for the revision of the composition of the Council of Governors on the recommendation of the working group.</li> <li>3) If necessary, <b>approve</b> any changes to the Constitution in accordance with due process, arising out of the approved changes to the composition of the governing body.</li> </ol>
(When)	As determined by the Council of Governors but at least every three years.
Information Needs	<ul style="list-style-type: none"> <li>• Approved and current copy of the Constitution for information.</li> <li>• Details of the constituencies for public and staff governors and an exceptions report on any changes to operational geographic boundaries for <b>information</b>.</li> <li>• Stakeholder map identifying the current and anticipated future key strategic partners of the Trust for <b>information</b>.</li> <li>• Report from the Trust Secretary providing a justified case for change for <b>information</b>.</li> <li>• Report on the outcome of the Annual review and evaluation of the individual and collective performance of the Council of Governors for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	To prepare and from time to time review the Trust's policy for the composition of the Non-Executive Directors
Purpose (Why)	Non-Executive Directors bring a set of skills and experience to the Board of Directors that complements the skill base of the executive Directors. From time to time the needs of the board will change as new challenges emerge either from external influence or internal organisational development. This may result in a change in the composition of the Non-Executive Directors. The Council of Governors has a responsibility to test any proposals made in order to ensure that the Board is adequately skilled to discharge its role.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Consider</b> and if thought fit <b>approve</b> a proposal from the Chair of the Board outlining recommendations for change with a supporting rationale and an Action Plan for delivery.</li> <li>2) Subject to any requirements to amend the Constitution, <b>approve</b> any amendments to the Policy on the composition of the Non-Executive Directors on the recommendation of the Chair of the Board.</li> <li>3) If necessary, <b>approve</b> any changes to the Constitution in accordance with due process, arising out of the approved changes to the policy on the composition of the Non-Executive Directors.</li> </ol>
(When)	As determined by the Board of Directors in consultation with the Council of Governors and probably at intervals of every three years.
Information Needs	<ul style="list-style-type: none"> <li>• Approved and current copy of the Constitution for <b>information</b>.</li> <li>• Skills Needs/Gap Analysis for an appropriate Board structure to meet the Medium Term objectives of the Trust for <b>information</b>.</li> <li>• Report and recommendation of the Chair of the Board of Directors relating to any changes to the composition of the Board for <b>assurance</b>.</li> <li>• Annual report of the Chair on the competency of the Board of Directors for <b>assurance</b>.</li> <li>• Proposal to Change the Constitution for <b>information</b>.</li> </ul>

Role of the CoG's (what)	Evaluation of the Council of Governor's own performance and conduct
Purpose (Why)	To provide assurance that individually and collectively the Council of Governors are able to continue to meet their responsibilities and duties in an effective and efficient manner and in line with current best governance practice.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) <b>Establish</b> a working group to consider the approach, including the inclusion of independent assessment, to a fundamental review of the efficiency of the structures and processes of the Council of Governors and the effectiveness of the Council of Governors in discharging its statutory role and other responsibilities.</li> <li>2) <b>Consider</b> the outcome report of the group, and if thought fit, <b>approve</b> any recommended changes to the method of operating and/or any other action plans arising from the review.</li> </ol>
(When)	As determined by the Council of Governors but at least annually.
Information Needs	<ul style="list-style-type: none"> <li>• Report of the Trust Secretary recommending the scope of a periodic review for <b>information</b>.</li> <li>• Final Report and Recommendations of any working group established for the purpose for <b>assurance</b>.</li> <li>• Relevant Reports of the Internal/External Auditors relating to the effectiveness and efficiency of governance arrangements as they relate to the Council of Governors for <b>assurance</b>.</li> <li>• Ad hoc reports relating to changes in accepted good governance practice for <b>information</b>.</li> <li>• Approved procedure for the annual review and evaluation of the performance of individual Governors contribution for information.</li> <li>• Annual Report on the individual and collective performance of members of the Council of Governors for <b>assurance</b>.</li> </ul>

Role of the CoG's (what)	Removal of a Governor
Purpose (Why)	The Council of Governors is made up of individually appointed or elected governors but once appointed the Council discharges its duties and responsibilities corporately. It is therefore the responsibility of the Council of Governors to ensure that all members of the governing body act appropriately, in accordance with the Code of Conduct and in the best interests of the Trust as a whole. The Constitution contains provision for the removal of Governors and the Council of Governors is required to make sure that the processes followed are fair, transparent and in line with the Constitution.
Discharge of the role (How)	The Council of Governors will: <ol style="list-style-type: none"> <li>1) In a formal meeting <b>consider</b> a proposal to remove a Governor presented by the Chair, or another Governor, and which states the grounds for removal in accordance with the provisions of the Constitution (in line with the procedure outlined in <b>Section 3I</b>).</li> <li>2) Call for a <b>vote</b> to remove the Governor in question</li> <li>3) <b>Approve</b> the removal of the Governor subject to the vote being carried by not less than two thirds of the remaining governors present and voting.</li> <li>4) <b>Require</b> the Trust Secretary to write to the Governor confirming the decision to remove them from office.</li> </ol>
(when)	As required on notification to the Trust Secretary or the Chair of the Board of the intention to propose a motion to remove a Governor.
Information Needs	<ul style="list-style-type: none"> <li>• Proposal for the removal of a Governor for <b>information</b></li> <li>• Response of the Governor for <b>information</b>.</li> <li>• Report of the general performance and conduct of the Governor as determined by the Procedure for the annual review and performance of Governors contribution for <b>information</b>.</li> </ul>

Role of the CoG's (what)	Call elections for filling vacancies on the Council of Governors
Purpose (Why)	Governors serve for a fixed period in order to ensure a continual refreshing of ideas and contribution in line with good governance practice. On occasions and for a variety of reasons, some Governors find that they can no longer continue in office. As a result vacancies arise on a regular basis. It is the responsibility of the Council of Governors to ensure that there is a full and active Council of Governors in place.
Discharge of the role (How)	The Council of Governors will: 1) <b>Require</b> the Trust Secretary to instigate the procedure to fill the unexpired period of the vacancy in accordance with the provisions of the Constitution or the calling of elections in the relevant constituencies where vacancies have arisen in accordance with the provisions of the Model Rules for Election as set out at Annex A of the Constitution as appropriate.
(When)	Within 3 months of the vacancy arising or annually as appropriate.
Information Needs	<ul style="list-style-type: none"> <li>• Approved and current copy of the Constitution for <b>information</b>.</li> <li>• Quarterly review of the Schedule of Governors Terms of Office for <b>information</b>.</li> <li>• Notification of a Governors resignation/removal from Office for <b>information</b>.</li> <li>• Assurance Reports on the process for the active recruitment and appointment of Governors to fill vacancies and the outcome of elections held as necessary for <b>assurance</b>.</li> </ul>
Role of the CoG's (what)	Amend the Constitution
Purpose (Why)	It is the responsibility of the Council of Governors to ensure that the Trust complies with the Constitution. Accordingly it is important to ensure that the document remains current and up to date and that, where applicable, a revised version is lodged with NHS Improvement (Monitor).
Discharge of the role (How)	The Council of Governors will: 1) At a formal meeting, <b>consider</b> a proposal to amend the constitution based on sound (including legally sound) and valid reasons for the changes. 2) Call for a <b>vote</b> to approve the changes to the Constitution. 3) <b>Approve</b> , subject to the vote being carried by a majority of Governors present and voting, the amendments to the Constitution.
(When)	As required but subject to review at least every three years.
Information Needs	<ul style="list-style-type: none"> <li>• Quarterly assurance report that the Trust has and continues to comply with its Licence Conditions for <b>assurance</b>.</li> <li>• Ad hoc reports and supported recommendations for proposals to change the Constitution for consideration for <b>information</b>.</li> </ul>

**- SECTION 4A -**

**PROCEDURE FOR THE APPOINTMENT OR RE-APPOINTMENT OF  
THE CHAIR OF THE BOARD OF DIRECTORS**

**INTRODUCTION**

- 1       Governors have a responsibility to ensure the right Chair is in place as the Chair plays a significant active leadership role in the Board of Directors and the Council of Governors. The ability to hold the Board of Directors to account therefore depends on there being good working relationships between the Council of Governors and the Chair.
  
- 2       Accordingly, the following procedure sets out the process to be adopted in the discharge of the Council of Governors' role.

**SCOPE AND AUTHORITY**

- 3       This procedure will apply in the following circumstances:
  - (a)   On the impending expiry of the existing Chair's term of appointment.
  - (b)   On the resignation/retirement of the existing Chair from the Board.
  - (c)   On the removal of the existing Chair from the Board.
  
- 4       The authority to appoint or re-appoint a Chair of the Board of Directors rests with the full Council.
  
- 5       The Nominations Committee has the delegated authority of the Council of Governors to undertake the process of identification of appointable candidates and to make a firm recommendation to the full Council of Governors on a preferred candidate.

**REFERENCE DOCUMENTS:**

- 6       This Procedure should be read in conjunction with the following reference documents:
  - (a)   Trust Constitution;
  - (b)   Code of Governance;
  - (c)   Framework for the Discharge of Governors' Role and Statutory Duties;
  - (d)   Terms of Reference for the Council of Governors' Nominations Committee;
  - (e)   Procedure for Appraisal of Chair and Non-Executive Directors

## PROCEDURE

- 7 In circumstances where the existing Chair's term of office is due to expire, the Council of Governors' Nominations & Remuneration Committee will:
- (a) Ascertain whether the existing Chair has expressed an interest in standing for re-appointment.
  - (b) If the existing Chair wishes to stand for re-appointment, ascertain suitability for re-appointment by consultation with the Chief Executive and the SID, including consideration of the outcomes of the last performance appraisal.
  - (c) Consider whether re-appointment of the existing Chair is in the best interests of the Trust having regard to the principle of board refreshing and renewal as outlined in the Governance Code, and in particular:
    - (i) the length of term of office already served.
    - (ii) an assessment of the skill base needed to meet future organisational need
    - (iii) the potential cost/benefits of an open market competitive recruitment process
  - (d) Make a recommendation to the Council of Governors whether to re-appoint or not to re-appoint the Chair on expiry of the current term of office, and the length of a new term of office, for reasons including whether it is in the best interests of the Trust to follow an open market recruitment process for which the existing Chair may apply.
- 8 In circumstances where the existing Chair does not intend to seek re-appointment or where the Council of Governors decides not to re-appoint, the Council of Governors' Nominations Committee will:
- (a) Taking into account the recommendations of the Board of Directors, review and agree the appropriate job description, defining the role and responsibilities, including the time commitment required. The job description to be developed with input from the Chair (where appropriate), the Chief Executive and the Trust Secretary.
  - (b) Taking into account the recommendations of the Board of Directors, review and agree the appropriate person specification, reflecting on the best skills and experience profile required to meet the current and future aspirational goals of the Trust. The person specification to be developed with input from the Chair, the Chief Executive and the Trust Secretary.
  - (c) Confirm the level of remuneration and terms and conditions, including the term of office, appropriate to the appointment.
  - (d) Agree and sign off a written strategy for the recruitment and selection of a new Chair, which reflects the importance of the position and provides a value for money process. It is likely to incorporate seeking advice and support from



outside agencies including consideration as to methods and fora for advertising any vacancy. Any change to the strategy as a result of market conditions would be approved by the Nominations Committee.

- (e) Approve and instigate standardised, equitable and fair interview procedures.
  - (f) Establish an interview/selection panel comprising the Council of Governors' Nominations Committee, the Chief Executive and a diverse range of stakeholders, including Non-Executive Directors and Service Users and professional recruitment advice.
  - (g) Review all applications received and produce a long list of candidates and consult with the professional recruitment agency, seeking their input in the development of a short list of not more than 5 candidates.
  - (h) The interview selection panel to interview the shortlisted candidates and agree a list of appointable candidates and a preferred candidate.
  - (i) Present the list of appointable candidates and a clear recommendation on the preferred candidate and term of office to the full Council of Governors for discussion and review at a formal meeting, together with a report summarising the process, selection criteria used, description of how and to what extent each candidate met the criteria and their relative strengths and weaknesses.
- 9 The Council of Governors in a formal meeting will:
- (a) Review the report and recommendation of the Nominations Committee in accordance with their statutory obligations by considering the issues set out in the report and any other relevant factors. It should be satisfied that all applicable law and guidance has been complied with, that the process followed was legal and appropriate and that the proposed appointee has the right qualities.
  - (b) In considering the recommendation, the Council of Governors will invite the Senior Independent Director to comment on the recommendation from the perspective of the Board of Directors.
  - (c) Approve the appointment of a Chair and the effective date of appointment, subject to a vote, carried by the majority of the members of the Council of Governors, in line with the Trust's Constitution.
  - (d) Provide input to the Senior Independent Director who will set objectives for the coming year once the appointment is made.
  - (e) Require the Trust Secretary to disclose the full process in the Annual Report.

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**- SECTION 4B -**

**PROCEDURE FOR THE REMOVAL OF THE  
CHAIR OF THE BOARD OF DIRECTORS**

**INTRODUCTION**

- 1 The performance of the Chair of the Board of Directors has a significant effect on the performance and reputation of the Trust.
- 2 Accordingly, the following procedure sets out the process to be adopted in the discharge of the Council of Governors' role in this respect.

**SCOPE AND AUTHORITY**

- 3 This Procedure will apply in the following circumstances:
  - (a) Alleged gross misconduct of the Chair.
  - (b) The Chair losing the confidence of the Board of Directors or the Council of Governors
  - (c) The Trust is in serious breach of its Licence Conditions and the Chair is judged as being accountable and responsible.
  - (d) As a measure of last resort when all other remedies have been exhausted.
- 4 The authority to remove the Chair of the Board of Directors rests with the full Council of Governors.

**REFERENCE DOCUMENTS**

- 5 This Procedure should be read in conjunction with the following reference documents:
  - (a) Framework for the Discharge of Governors' Role and Statutory Duties
  - (b) Trust Constitution
  - (c) Code of Governance
  - (d) Procedure for Resolution of Differences between Trust Board and Council of Governors

**PROCEDURE**

- 6 This Procedure should be used only as a last resort, when all other remedies have been exhausted.
- 7 From time to time issues between the Council of Governors and the Board of Directors (including the Chair) will arise and a formal procedure exists for the resolution of differences and this should be followed in the first instance.

- 8 Where the dispute resolution procedure has not been effective, or where the use of the procedure is not appropriate or proportionate in the circumstances, members of the Council of Governors should indicate the likelihood of a vote of no confidence in the Chair arising from one or more of the circumstances outlined above to the Senior Independent Director or the Trust Secretary.
- 9 The Senior Independent Director will:
- (a) Arrange a meeting between a representative group of the Council of Governors (including the Lead Governor) and the Non-Executive Directors for the purpose of resolving the concerns raised or agreeing an alternative course of action.
  - (b) Should the concern not be resolved at this meeting, in association with the Lead Governor of the Council of Governors, then a formal meeting will be convened in accordance with Annex C of The Trust's Constitution for the purpose of a vote of no confidence. The meeting will be chaired by the Deputy Chair of the Board of Directors. The Senior Independent Director will also attend and report the outcome to the Board of Directors.
  - (c) A Governor, or the Lead Governor on behalf of Governors, will present the issues giving rise to the motion.
  - (d) The Deputy Chair will call for a vote of no confidence.
  - (e) If a no confidence or censure vote is carried by a majority of governors, the Lead Governor must directly inform NHS Improvement (Monitor) via the Relationship Manager.
- 10 In circumstances where a vote of no confidence or censure vote is carried, the Council of Governors' Nominations Committee (chaired by the Senior Independent Director) will:
- (a) Seek legal advice throughout the process.
  - (b) Instigate an investigation, advice and consultation process with clear time limits and outcomes. The Nominations Committee should ensure that the Council of Governors and the Non-Executive Directors have a full opportunity to put forward their views on the basis of available evidence.
  - (c) Ascertain on the basis of legal advice whether suspension of the Chair is appropriate and the terms (including the length) of any suspension.
  - (d) Ask the Trust Secretary to notify the Chair, Chief Executive and Board of Directors in writing of any decisions made in respect of suspension, terms and conditions of the suspension and the rationale behind the decision.
  - (e) Produce a written report summarising the situation to date for the Council of Governors.
  - (f) Ascertain that a full and proper process has been followed and, if necessary, formulate a proposal for the removal of the Chair.

- (g) Provide written reasons for the proposal to the Chair who shall be given the opportunity to respond fully to such reasons. The Chair's response to be included in a full report to the Council.
  - (h) Require the Trust Secretary to convene a full meeting of the Council of Governors in accordance with Annex B of the Trust's Constitution informing members of the purpose of the meeting. The Deputy Chair to act as Chair at the meeting.
  - (i) Inform the Chief Executive and the Board of Directors.
  - (j) Present a full report to the Council, detailing the cause of the vote of no confidence, the actions taken to mitigate the situation, the investigation process, the legal position, the Chair's statement and a summary of the initial meeting between the Council of Governors and the Non-Executive Directors.
- 11 In considering a proposal for the removal of the Chair at a formal meeting of the Council of Governors, the Council of Governors will:
- (a) Clarify any points of fact or doubts about the process and ensure that any deficiencies are remedied before a vote takes place.
  - (b) Propose a motion for removal of the Chair presented by a Governor and seconded by no fewer than 10 governors, including at least two elected governors and two appointed governors.
  - (c) Approve the removal of the Chair subject to a vote carried by three quarters of the members of the whole Council of Governors in office at the date of voting.
  - (d) Require the Trust Secretary to disclose the full reasons for, and process of, removal in the Trust's Annual Report.
  - (e) In the event of the removal of the Chair, the Lead Governor of the Council of Governors must inform NHS Improvement (Monitor) of the outcome of the proceedings.

NOTE: If any proposal to remove the Chair is not approved at a meeting of the Council of Governors, no further proposal can be put forward to remove the Chair based upon the same reasons within twelve months of the meeting.

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**- SECTION 4C -**

**PROCEDURE FOR THE APPOINTMENT OR RE-APPOINTMENT OF  
NON-EXECUTIVE DIRECTORS**

**INTRODUCTION**

- 1       Governors have a responsibility to ensure that Non-Executive Directors provide constructive challenge, independence and balance to the executive element of the Board of Directors and that they are fit and proper persons for the Trust.
- 2       Accordingly, the following procedure sets out the process to be adopted in the discharge of the Council of Governors' role.

**SCOPE AND AUTHORITY**

- 3       This Procedure will apply in the following circumstances:
  - (a)   On the impending expiry of an existing Non-Executive Director's term.
  - (b)   On the resignation of an existing Non-Executive Director from the Board.
  - (c)   On the removal of an existing Non-Executive Director from the Board.
- 4       The authority to appoint or re-appoint a Non-Executive Director of the Board of Directors rests with the full Council.
- 5       The Nominations Committee has the delegated authority of the Council of Governors to undertake the process of identification of appointable candidates and to make a firm recommendation to the full Council of Governors on a preferred candidate.

**REFERENCE DOCUMENTS**

- 6       This procedure should be read in conjunction with the following reference documents:
  - (a)   Trust Constitution
  - (b)   Code of Governance
  - (c)   Framework for the Discharge of Governors' Role and Statutory Duties
  - (d)   Terms of Reference for the Council of Governors' Nominations Committee

**PROCEDURE**

- 7       In circumstances where the existing Non-Executive Director's term of office is due to expire, the Council of Governors' Nominations Committee will:
  - (a)   Ascertain whether the existing Non-Executive Director has expressed an interest in standing for re-appointment.

- (b) If the existing Non-Executive Director wishes to stand for re-appointment, ascertain suitability for re-appointment by consultation with the Chair of the Board, including consideration of the outcomes of the last performance appraisal.
  - (c) Consider whether re-appointment is in the best interests of the Trust, having regard to the principle of Board refreshing and renewal as outlined in the Governance Code, and in particular:
    - (i) the length of term of office already served, and
    - (ii) an assessment of the skill base needed for the Board to meet future organisational need.
    - (iii) the potential cost/benefits of an open market competitive recruitment process.
  - (d) Make a recommendation to the Council of Governors whether to re-appoint or not to re-appoint the existing Non-Executive Director on expiry of the current term of office, and the length of a new term of office, for reasons including whether it is in the best interests of the Trust to follow an open market recruitment process for which the existing Non-Executive Director may apply.
- 8 In circumstances where the existing Non-Executive Director does not intend to seek re-appointment, or where the Council of Governors decides not to re-appoint, the Council of Governors' Nominations & Remuneration Committee will:
- (a) Taking into account the recommendations of the Board of Directors, review and agree the appropriate job description, defining the role and responsibilities, including the time commitment required. The job description to be developed with input from the Chair, and the Trust Secretary.
  - (b) Taking into account the recommendations of the Board of Directors, review and agree the appropriate person specification, reflecting on the best skills and experience profile required to meet the current and future aspirational goals of the Trust. The person specification to be developed with input from the Chair and the Trust Secretary.
  - (c) Confirm the level of remuneration and terms and conditions, including the term of office, appropriate to the appointment.
  - (d) Agree and sign off a written strategy for the recruitment and selection of a new Non-Executive Director, which reflects the importance of the position and provides a value for money process. It is likely to incorporate seeking advice and support of outside agencies including consideration as to methods and fora for advertising any vacancy. Any change to the strategy as a result of market conditions would be approved by the Nominations Committee.
  - (e) Approve and instigate standardised, equitable and fair interview procedures.



- (f) Establish an interview/selection panel comprising the Council of Governors' Committee, the Chief Executive and a diverse range of stakeholders, including professional recruitment advice.
  - (g) Review all applications received and produce a long list of candidates and consult with the independent recruitment agency, seeking their input in the development of a short list of not more than 5 candidates.
  - (h) Interview selection panel to interview the shortlisted candidates and agree a list of appointable candidates and a preferred candidate.
  - (i) Present the list of appointable candidates and a clear recommendation on the preferred candidate and term of office to the full Council of Governors for discussion and review at a general meeting, together with a full report summarising the process, selection criteria used, description of how and to what extent each candidate met the criteria and their relative strengths and weaknesses.
- 9 The Council of Governors in a formal meeting will:
- (a) Review the report and recommendation of the Nominations Committee in accordance with their statutory obligations by considering the issues set out in the report and any other relevant factors. It should be satisfied that all applicable law and guidance has been complied with, that the process followed was legal and appropriate and that the proposed appointee has the right qualities.
  - (b) In considering the recommendation, the Council of Governors will invite the Chair to comment on the recommendation from the perspective of the Board of Directors.
  - (c) Approve the appointment of a Non-Executive Director and the effective date of appointment subject to a vote, carried by the majority of the Council of Governors, in line with the Trust's Constitution Annex B.
  - (d) Require the Trust Secretary to disclose the full process in the Annual Report.

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**- SECTION 4D -**

**PROCEDURE FOR THE REMOVAL OF THE OTHER NON-EXECUTIVE DIRECTORS OF THE BOARD**

**INTRODUCTION**

- 1 The performance of the Board of Directors and that of individual Non-Executive Directors has a significant effect on the performance and reputation of the Trust.
- 2 Accordingly, the following procedure sets out the process to be adopted in the discharge of the Council of Governors' role.

**SCOPE AND AUTHORITY**

- 3 This Procedure will apply in the following circumstances:
  - (a) On the alleged gross misconduct of a Non-Executive Director.
  - (b) On the receipt of a request from the Board of Directors.
  - (c) As a measure of last resort when all other remedies have been exhausted.
- 4 The authority to remove a Non-Executive Director from the Board rests with the full Council of Governors.

**REFERENCE DOCUMENTS**

- 5 This Procedure should be read in conjunction with the following reference documents:
  - (a) Framework for the Discharge of Governors' Role and Statutory Duties
  - (b) Terms of Reference for the Council of Governors' Nominations Committee
  - (c) Trust Constitution
  - (d) Code of Governance
  - (e) Procedure for Resolution of Differences between Trust Board and Council of Governors

**PROCEDURE**

- 6 This Procedure should be used only as a last resort, when all other remedies have been exhausted.
- 7 From time to time issues between the Council of Governors and the Board of Directors will arise and a formal procedure exists for the resolution of differences and this should be followed in the first instance.

- 8 Where the dispute resolution procedure has not been effective, or where the use of the procedure is not appropriate or proportionate in the circumstances, members of the Council of Governors should indicate the likelihood of a vote of no confidence in the Non-Executive Director arising from one or more of the circumstances outlined above to the Chair (where appropriate); the Senior Independent Director or the Trust Secretary.
- 9 The Chair will:
- (a) Arrange a meeting between a representative group of the Council of Governors (including the Lead Governor) for the purpose of resolving the concerns raised or agreeing an alternative course of action.
  - (b) Should the concern not be resolved at this meeting then a formal meeting will be convened in accordance with Annex B of the Trust's Constitution for the purpose of a vote of no confidence.
  - (c) A Governor, or the Lead Governor on behalf of Governors, will present the issues giving rise to the motion.
  - (d) The Chair will call for a vote of no confidence.
  - (e) If a no confidence or censure vote is carried by a majority of governors, the Lead Governor must directly inform NHS Improvement (Monitor) via the Relationship Manager.
- 10 In circumstances where a vote of no confidence or censure vote is carried the Nominations Committee (supported by the Chair and Trust Secretary) will:
- (a) Seek legal advice throughout the process.
  - (b) Instigate an investigation, advice and consultation process with clear time limits and outcomes. The Nominations Committee should ensure that the Council of Governors and the Non-Executive Directors have a full opportunity to put forward their views on the basis of available evidence.
  - (c) Ascertain on the basis of legal advice whether suspension of the Non-Executive Director is appropriate and the terms (including the length) of any suspension.
  - (d) Ask the Trust Secretary to notify the Non-Executive and the Chair in writing of any decisions made in respect of suspension, terms and conditions of the suspension and the rationale behind the decision.
  - (e) Produce a written report summarising the situation to date for the Council of Governors.
  - (f) Ascertain that a full and proper process has been followed and, if necessary, formulate a proposal for the removal of the Non-Executive Director.

- (g) Provide written reasons for the proposal to the Non-Executive Director who shall be given the opportunity to respond fully to such reasons. The Non-Executive Director's response to be included in a full report to the Council.
  - (h) Require the Trust Secretary to convene a full meeting of the Council of Governors in accordance with Annex 6 of the Trust's Constitution informing members of the purpose of the meeting.
  - (i) Inform the Chief Executive and the Board of Directors.
  - (j) Present a full report to the Council, detailing the cause of the vote of no confidence, the actions taken to mitigate the situation, the investigation process, the legal position, the Non-Executive Director's statement and a summary of the initial meeting between the Council of Governors and the Non-Executive Directors.
- 11 In considering a proposal for the removal of a Non-Executive Director at a general meeting of the Council of Governors, the Council of Governors will:
- (a) Clarify any points of fact or doubts about the process and ensure that any deficiencies are remedied before a vote takes place.
  - (b) Propose a motion for removal of the Non-Executive Director presented by a Governor and seconded by no fewer than 10 governors, including at least two elected governors and two appointed governors.
  - (c) Approve the removal of the Non-Executive Director subject to a vote carried by three quarters of the members of the whole Council of Governors in office at the date of voting.
  - (d) Require the Trust Secretary to disclose the full reasons for, and process of, removal in the Trust's Annual Report.
  - (e) In the event of the removal of the Non-Executive Director, the Vice Chair of the Council of Governors must inform NHS Improvement (Monitor) of the outcome of the proceedings.

NOTE - If any proposal to remove the Non-Executive Director is not approved at a meeting of the Council of Governors, no further proposal can be put forward to remove the Non-Executive Director based upon the same reasons within twelve months of the meeting.

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**- SECTION 4E -**

**PROCEDURE TO DECIDE THE REMUNERATION AND  
ALLOWANCES, AND OTHER TERMS AND CONDITIONS OF  
OFFICE, OF THE CHAIR AND NON-EXECUTIVE DIRECTORS**

**INTRODUCTION**

- 1       Governors have a responsibility to decide on remuneration and allowances and other terms and conditions of office of the Chair and other Non-Executive Directors which strike the right balance between motivating and attracting the right candidates, whilst ensuring value for money.

**SCOPE AND AUTHORITY**

- 2       This procedure will apply in the following circumstances:
  - (a)   Prior to appointment of a new Chair or Non-Executive Director in line with the overall appointments process
  - (b)   On-going review process, including the Annual Review. The Annual Review should be a full review every 3 years.
  - (c)   Any perceived change in market conditions or any perceived change in an individual's responsibilities or their time commitment to the role.
  - (d)   The Council of Governors' Nominations Committee has the delegated authority of the Council of Governors to recommend to the Council the remuneration of the Chairman and Non-Executive Directors of the Trust.

**REFERENCE DOCUMENTS**

- 3       This procedure should be read in conjunction with the following reference documents:
  - (a)   Framework for the Discharge of Governors' Role and Statutory Duties;
  - (b)   Terms of Reference for the Council of Governors' Nominations and Remuneration Committee;
  - (c)   Trust Constitution;
  - (d)   Code of Governance;
  - (e)   Procedure for Appraisal of Chair and Non-Executive Directors

## PROCEDURE

- 4 In circumstances where a new Chair or Non-Executive Director is to be appointed the Council of Governors' Nominations & Remuneration Committee will:
  - (a) Examine certain factors: time commitment required; responsibilities; terms and conditions available at similar trusts and comparable organisations.
  - (b) Take advice from the Trust's HR specialists and professional advice on prevailing terms and conditions.
  - (c) Seek advice and guidance from other relevant bodies such as the Foundation Trust Network.
  - (d) Consult with Board Remuneration Committee on matters such as terms and conditions available at comparable organisations, trusted and experienced advisers and relevant performance indicators that may be applicable to both executive and Non-Executive directors.
  - (e) Establish term of office, responsibilities, remuneration and allowances, including pay and any non-taxable amounts. Location of work, hours of work expected and termination provisions, including notice periods.
  - (f) Liaise with the Council of Governors, presenting a report and recommendations on remuneration and terms and conditions before a new post is advertised. In circumstances where the recommendation is outside of the current rates paid to Non-Executive Directors in the Trust, then the approval of a revised rate will need to be given by the full Council of Governors in the usual way prior to the appointment being made.
- 5 In circumstances where there are perceived changes to market conditions, changes to existing terms and conditions or where there is any perceived change in an individual's responsibilities or their time commitment to the role.
- 6 The Council of Governors' Nominations Committee will:
  - (a) Conduct a review of the individual's terms and conditions.
  - (b) Seek external professional advice, particularly legal advice, before changes are proposed.
  - (c) Consult with Board Remuneration Committee on matters such as terms and conditions available at comparable organisations, trusted and experienced advisers and relevant performance indicators that may be applicable to both executive and Non-Executive directors.
  - (d) Present report and recommendations to the Council of Governors at a general meeting for an ultimate decision on existing appointments.



- 7 The Council of Governors at a formal meeting will:
- (a) Annually review and agree the proposals for the remuneration of existing Non-Executive Directors, including the Chair. It should be satisfied that the proposals strike the right balance between motivating and attracting the right candidates whilst ensuring value for money for the Trust.
  - (b) Review and agree the proposals for the remuneration of new Non-Executive Directors, including the Chair. It should be satisfied that the proposals strike the right balance between motivating and attracting the right candidates whilst ensuring value for money for the Trust.
  - (c) Require the Trust Secretary to disclose the full process in the Annual Report.

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**- SECTION 4F -****PROCEDURE TO APPROVE THE APPOINTMENT  
OF THE CHIEF EXECUTIVE****INTRODUCTION**

- 1 Under the 2003 Act, there is a legal requirement that the appointment of a Chief Executive needs approval of the Council of Governors.
- 2 Accordingly, the following Procedure sets out the process to be adopted in the discharge of the Council of Governors' role.

**SCOPE AND AUTHORITY**

- 3 This Procedure will apply in the following circumstances:
  - (a) On the impending retirement of the current Chief Executive.
  - (b) On the resignation of the current Chief Executive.
- 4 The authority to appoint or re-appoint a Chief Executive rests with the Non-Executive Directors of the Trust Board.

**REFERENCE DOCUMENTS**

- 5 This Procedure should be read in conjunction with the following reference documents:
  - (a) Trust Constitution
  - (b) Code of Governance
  - (c) Framework for the Discharge of Governors' Role and Statutory Duties
- 6 The Council of Governors at a formal meeting will:
  - (a) Review and discuss a Report from the Non-Executive Directors putting forward the name of a candidate for appointment, together with an outline of legal aspects, guidance sought, and the process undertaken. It should also include the job description.
  - (b) Decide to approve or veto the candidate. As the appointment of a Chief Executive is the primary obligation of the Non-Executive Directors, approval should not be withheld lightly.
  - (c) Ensure they are content that Non-Executive Directors have complied with the Constitution and other relevant guidance such as the Code of Governance.
  - (d) Ensure they are content with the various stages of the appointment process such as use of advertisements, criteria for selection and how selection was

carried out. (Involvement of Governors in the selection process will result in the Council having a clearer understanding of the process.)

- (e) Ensure they are content that the appointment process has identified a candidate with sufficient experience to fulfil all essential aspects of the job description.

7 In circumstances where approval of the proposed candidate is withheld

- (a) The Lead Governor to take responsibility for setting out reasons to the Chair and other Non-Executive Directors.
- (b) Review and discuss a further proposal from the Non-Executive Directors who may put forward the same candidate again for approval. This may be with further assurances in relation to any concerns expressed by the Council of Governors. Alternatively, Non-Executive Directors may decide to seek a new candidate.
- (c) Require the Trust Secretary to disclose the full process, the decision and reasons for that decision to be set out in Annual Report, whatever the outcome.

**- SECTION 4G -****PROCEDURE FOR APPOINTMENT OR RE-APPOINTMENT  
OF THE TRUST'S AUDITOR****INTRODUCTION**

- 1 The Auditor has statutory duties in auditing the accounts of the Trust. It is the responsibility of the Council of Governors to ensure that a suitably qualified and appropriately experienced individual or firm is appointed in order to effectively and efficiently discharge the responsibility, and that the performance of the Auditor meets the required standard of the Code of Audit Practice.
- 2 Accordingly, the following Procedure sets out the process to be adopted in the discharge of the Council of Governors' role and the requirement for Governors to be clear about the roles and responsibilities of the Audit Committee.

**SCOPE AND AUTHORITY**

- 3 This Procedure will apply in the following circumstances –
  - (a) Impending expiry of the existing Auditor's contract term
  - (b) Removal of the existing Auditor
  - (c) Resignation of the existing Auditor

**REFERENCE DOCUMENTS:**

- 4 This Procedure should be read in conjunction with the following reference documents:
  - (a) Trust Constitution;
  - (b) Code of Governance;
  - (c) Code of Audit Practice (National Audit Office);
  - (d) Framework for the Discharge of Governors' Role and Statutory Duties;
  - (e) Procedure for the Removal of the Auditor;
  - (f) Procedure for the Removal of a Governor

**PROCEDURE**

- 5 The Council of Governors will
  - (a) Ensure they are content with membership of Audit Committee.
  - (b) Receive reports from the Audit Committee identifying matters where it considers action or improvement is needed and making recommendations on the steps to be taken.

- (c) Consider such reports closely, particularly with regards to holding Directors to account for the Trust's performance.
- (d) Ensure they are clear about criteria for auditors set out in the Code of Audit Practice for NHS FTs.
- (e) Ensure that accounts are prepared in accordance with all relevant directions set by NHS Improvement (Monitor) and any other statutory provisions.
- (f) Ensure that proper practices have been observed in the compilation of the accounts.
- (g) Ensure that proper arrangements have been made for securing economy, efficiency and effectiveness in its use of resources.
- (h) Ensure that the Auditor (individual or firm) is a member of one of a list of specified professional bodies set out in legislation and:
  - (i) has an established and demonstrable standing within the healthcare sector and able to show a high level of experience and expertise;
  - (ii) complies with the Code of Audit Practice;
  - (iii) subjects the audit to internal quality control procedures that are sufficiently robust to monitor the compliance of the audit work with the Code of Audit Practice;
  - (iv) the team of auditors is refreshed/altered every 2 to 3 years to ensure the requisite standard of independence
- (i) Ensure that if the auditor fails to meet or has cause to believe that it will not be able to comply with the criteria set out in the Code of Audit Practice at any point during its appointment, it must resign.
- (j) Receive a report from Audit Committee, after completion of the annual audit which represents an assessment of the Auditor's work by the Audit Committee and which should ensure that it is of a sufficiently high standard and the fees are reasonable. The Report must make a recommendation with respect to retention of the Auditor.
- (k) Decide whether to accept the recommendation of the Audit Committee with respect to retention of the Auditor.

## - SECTION 4H -

### PROCEDURE FOR THE REMOVAL OF THE AUDITOR

#### INTRODUCTION

- 1 The Auditor has a significant independent role in the monitoring of performance of the Trust; hence the removal of the Auditor must be considered a very serious step. It is the responsibility of the Council of Governors to ensure that the removal of the Auditor is warranted and appropriate and that in doing so a rigorous and transparent process is followed.

#### SCOPE AND AUTHORITY

- 2 This Procedure will apply in the following circumstances:
- (a) As required on receipt by the Trust Secretary of a proposal to consider the removal of the Auditor.

#### REFERENCE DOCUMENTS

- 3 This Procedure should be read in conjunction with the following reference documents:
- (a) Trust Constitution;
  - (b) Code of Governance;
  - (c) Code of Audit Practice;
  - (d) Framework for the Discharge of Governors' Role and Statutory Duties;
  - (e) Procedure for Appointment or Re-appointment of the Trust's Auditor;
  - (f) Procedure for the Removal of a Governor.

#### PROCEDURE

- 4 The Council of Governors will receive a proposal to consider the removal of the Auditor and:
- (a) Establish a clear understanding of reasons for potential removal before embarking on process.
  - (b) Ensure that all other means of resolving any dispute have been exhausted.
  - (c) Require the Audit Committee to investigate the matter, including, where appropriate, any allegations made against the Auditor, and produce a report.
  - (d) Ensure that the auditors are given adequate opportunities to respond.

- 5 The Council of Governors at a formal meeting will:
- (a) Receive and consider the report of the Audit Committee, together with the response of the Auditor, in relation to any allegations made.
  - (b) Ensure that a full and proper process has been followed. If not, they must seek clarification and remedy any deficiencies before voting.
  - (c) On the basis of the Audit Committee Report and recommendations call a vote for the removal of the Auditor.
  - (d) Subject to the vote being carried by a majority of the Council present and voting, approve the removal of the Auditor.
  - (e) If the vote is carried, require the Chair to write to NHS Improvement (Monitor) informing it of the reasons behind the decision to end the appointment in disputed circumstances.
  - (f) Require the Trust Secretary to ensure that the removal process and the reasons for it are included in the Annual Report.



## - SECTION 4I -

### PROCEDURE FOR THE REMOVAL OF A GOVERNOR

#### INTRODUCTION

- 1 The Council of Governors through the Chair is responsible for the effective and efficient working of the Governing body and for ensuring that a full complement of governors is maintained. This includes a responsibility to ensure that all members of the Governing body appropriately contribute to fulfil their role and act in accordance with the Code of Conduct for Governors and in a manner that supports the values and reputation of the Trust.
- 2 Accordingly, the following procedure sets out the process to be adopted in the discharge of the Council of Governors' role.

#### SCOPE AND AUTHORITY

- 3 This procedure will apply in the following circumstances:
  - (a) Alleged gross misconduct of a Governor
  - (b) A Governor losing the confidence of the Council of Governors
  - (c) Insufficient attendance at meetings of the Council of Governors or sub committees if a member

#### REFERENCE DOCUMENTS

- 4 This Procedure should be read in conjunction with the following reference documents:
  - (a) Terms of Reference of the Council of Governors
  - (b) Council of Governors Governance Handbook
  - (c) Trust Constitution
  - (d) Code of Governance
  - (e) Code of Conduct for Governors

#### PROCEDURE

- 5 This Procedure should be used only as a last resort, when all other remedies have been exhausted.
- 6 Members of the Council of Governors should indicate the likelihood of a vote of no confidence in the Governor arising from one or more of the circumstances outlined above to the Chair of the Board or the Trust Secretary.
- 7 In considering a proposal for the removal of a Governor at a formal meeting of the Council of Governors:

- 8 The Council of Governors will:
- (a) In a formal meeting consider a proposal to remove a Governor presented by the Chair, or another Governor, and which states the grounds for removal in accordance with the provisions of the Constitution.
  - (b) Call for a vote to remove the Governor in question
  - (c) Approve the removal of the Governor subject to the vote being carried by not less than two thirds of the remaining governors present and voting.
  - (d) Require the Trust Secretary to write to the Governor confirming the decision to remove them from office.

NOTE - If any proposal to remove the Governor is not approved at a meeting of the Council of Governors, no further proposal can be put forward to remove the Governor based upon the same reasons within twelve months of the meeting.

**- SECTION 5A -**

**COUNCIL OF GOVERNORS**  
**TERMS OF REFERENCE**

**1 PURPOSE**

- 1.1 The role of the Council of governors is derived from Schedule 7 and other sections of the National Health Service Act 2006, as amended by the Health & Social Care Act 2012. This document should be read in conjunction with these Act and also with the Constitution for Mersey Care NHS Foundation Trust.

**2 GENERAL DUTIES**

- 2.1 The general duties of the Council of Governors are:
- (a) To hold the non-executive director individually and collectively to account for the performance of the Board of Directors
  - (b) To represent the interests of the members of the Trust as a whole and the interests of the public

**3 AUTHORITY**

- 3.1 The full meeting of the Council of Governors and its Nomination & Remuneration Committee are the bodies in which Governors have official standing. All other forums are advisory.

**4 MEMBERSHIP**

- 4.1 The composition of the membership of the Council of Governors is set out in the Constitution. The Chair of the Board of Directors is the Chair of the Council of Governors and presides over meetings of the Council of Governors. In the absence of the Chair, the Senior Independent Director or the Lead Director (where appropriate) will take the Chair.

**5 QUORUM**

- 5.1 The quorum for the Council of Governors is set out in the Constitution.

**6 COUNCIL OF GOVERNORS COMMITTEES**

- 6.1 The Council of Governors will establish the following committees:
- (a) Nomination Committee
  - (b) Such other committees as may be required from time to time
  - (c) Task & Finish Working Groups as necessary

## **7 THE ROLE OF THE COUNCIL OF GOVERNORS**

### **7.1 In respect of Non-Executive Directors; Chief Executive and the Auditors**

- (a) Approve the policies and procedures for the appointment and where necessary for the removal of the Chair of the Board of Directors and non-executive directors of the Trust Board on the recommendation of the Council of Governor's Nomination & Remuneration Committee.
- (b) Approve the appointment or removal of a Chair of the Board on the recommendation of the Council of Governor's Nomination & Remuneration Committee
- (c) Approve the appointment or removal of a non-executive director on the recommendation of the Council of Governor's Nomination & Remuneration Committee
- (d) Approve the policies and procedures for the annual appraisal of the Chair of the Board of Directors and non-executive directors of the Trust Board on the recommendation of the Council of Governor's Nomination & Remuneration Committee
- (e) Approve changes to the remuneration, allowances and other terms of office for the Chair of the Board and other non-executive directors on the recommendation of the Council of Governor's Nomination & Remuneration Committee
- (f) Approve or where appropriate, decline to approve the appointment of a proposed candidate as Chief Executive recommended by the non-executive directors
- (g) Approve the criteria for appointing, re-appointing or removing the Auditor
- (h) Approve the appointment or re-appointment and the terms of engagement of the Auditor on the recommendation of the Audit Committee

### **7.2 In respect of the Constitution and Compliance:**

- (a) Jointly approve with the Board of Directors amendments to the Constitution, subject to any changes in respect of the powers, duties or role of the Council of Governors being ratified at the next general meeting of members (at which a member of the Council of Governors needs to present the change.)
- (b) Notify NHS Improvement (Monitor), via the Lead Governor, if the Council of Governors is concerned that the Trust is breaching its Licence if these concerns cannot be resolved at the local level.

### **7.3 In respect of Governors:**

- (a) Approve the allocation of Governors to sub-committees of the Council of Governors, working groups and any joint working groups set up by the Board of Directors.

- (b) Approve the appointment and the role of the Lead Governor.
- (c) Receive quarterly reports from the Chairs of the Council of Governors sub-committees in the discharge of the committees duties
- (d) Approve the removal from office of a Governor in accordance with procedure set out in the Constitution.
- (e) Approve jointly with the Board of Directors the procedure for the resolution of disputes and concerns between the Board of Directors and the Council of Governors.

7.4 In respect of Strategy, Planning, Reorganisations:

- (a) Provide feedback on the development of the strategic direction of the Trust to the Board of Directors as appropriate.
- (b) Contribute to the development of stakeholder strategies, including member engagement strategies.
- (c) Act as a critical partner to the Board of Directors in the development of the forward plan.
- (d) Where the forward plan contains a proposal that the Trust will carry on an activity other than the provision of goods and services for the purposes of the NHS in England, determine whether the proposal will interfere or not in the fulfilment by the Trust of its principal purpose (the provision of goods and services for the purposes of the health service in England). Notify the Board of Directors of its determination.
- (e) Approve or not approve increases to the proposed amount of income derived from the provision of goods and services other than for the purpose of the NHS in England where such an increase is greater than 5% of the total income of the trust.
- (f) Approve or not approve proposals from the Board of Directors for mergers, acquisitions, separations and dissolutions. More than half of the total number of Governors needs to approve such a proposal.
- (g) Approve or not approve proposals for significant transactions where defined in the Constitution or such other transactions as the Board may submit for the approval of Governors from time to time. Such transactions require the approval of more than half of Governors voting at a quorate meeting of the Council of Governors.

7.5 In respect of Representing Members and the Public:

- (a) Approve the membership engagement strategy.
- (b) Contribute to members' and other stakeholders' understanding of the work of the trust in line with engagement and communication strategies.

- (c) Seek the views of stakeholders, including members and the public and feedback relevant information to the Board of Directors or to individual managers within the Trust as appropriate.
- (d) Act as ambassadors in order to raise the profile of the Trust's work with the public and other stakeholders.
- (e) Promote membership of the Trust and contribute to opportunities to recruit members in accordance with the membership strategy.
- (f) Attend events during the year that facilitate contact between members, the public and Governors to promote Governor accountability
- (g) Report to members each year on the performance of the Council of Governors.

7.6 In respect of Holding the Non-Executive Directors to Account:

- (a) The Council of Governors must hold the non-executive directors individually and collectively to account for the performance of the board. It must agree a process and dialogue with the board that will enable them to fulfil this duty.
- (b) As part of this a good working relationship between the Board of Directors and Council of Governors is critical; it can be fostered by meeting regularly and with sufficient frequency to establish appropriate channels of communication and constructive challenge.

## **8 REPORTS AND INFORMATION TO FULFIL THE ROLE OF GOVERNORS**

8.1 The following reports and information will be provided to the Council of Governors to support this process and dialogue (although this list is not exclusive):

- (a) Receive the agenda of the meetings of the Board of Directors before the meeting takes place.
- (b) Receive the minutes of the meeting of the Board of Directors as soon as is practicable after the meeting.
- (c) Be equipped by the trust with the skills and knowledge they require in their capacity as governors.
- (d) Receive the annual report of the audit committee on the work, fees and performance of the auditor.
- (e) Receive the annual report and accounts (including quality accounts).
- (f) Receive the quarterly report of the board of directors on the performance of the foundation trust against agreed key financial, operational, quality and regulatory compliance indicators and stated objectives.
- (g) Participate in opportunities to review services and environments such as PEAT inspections/quality reviews/ local activities and evaluation of user/carer experience.

- (h) Receive and review quarterly assurance reports.
- (i) Receive reports from the board on important sectoral or strategic issues.
- (j) Use information obtained through the above sources to monitor performance and progress against the key milestones in the strategic and annual plans and to hold the non-executive directors to account for the performance of the board of directors.
- (k) If considered necessary (as a last resort), in the fulfilment of this duty, obtain information about the Trust's performance or the directors' performance by requiring one or more directors to attend a Council of Governor meeting

## **9 COLLECTIVE EVALUATION OF PERFORMANCE**

- 9.1 The Council of Governors will carry out an annual review of its effectiveness and efficiency in the discharge of its responsibilities and achievement of its objectives.

## **10 FREQUENCY OF MEETINGS**

- 10.1 The Council of Governors will meet a minimum of 3 times per year and in addition hold an annual members meeting.

## **11 ADMINISTRATIVE ARRANGEMENTS**

- 11.1 The Trust Secretary will ensure:
- (a) that the Council receives sufficient resources to undertake its duties;
  - (b) correct minutes of meetings are taken and once agreed by the chair that they are distributed to the members;
  - (c) the minutes of the meeting are distributed in draft form within 14 days of the meeting taking place;
  - (d) a record of matters arising is produced with issues to be carried forward;
  - (e) an action list is produced following each meeting and any outstanding action is carried forward on the action list until complete;
  - (f) conflicts of interest are recorded along with the arrangements for managing those conflicts;
  - (g) appropriate support to the Chair and Council members to enable them to fulfil their role;
  - (h) that advice is provided to the Council on pertinent areas;
  - (i) the agenda is agreed with the Chair prior to sending papers to members no later than seven days before the meeting;
  - (j) the papers of the Committee are filed in accordance with the trust's policies and procedures

**12 REVIEW**

- 12.1 The Council of Governors will review these Terms of Reference annually.



**- SECTION 5B -**

**NOMINATION AND REMUNERATION COMMITTEE**  
**TERMS OF REFERENCE**

**1 CONSTITUTION**

- 1.1 The Council of Governors hereby resolves to establish a Nomination and Remuneration Committee to be known as the (referred to as the “Committee” below). The Committee is authorised by the Council of Governors to act within its terms of reference.

**2 ACCOUNTABILITY**

- 2.1 The Committee is accountable to the Council of Governors and the Council of Governors must approve any changes to these terms of reference.

**3 AUTHORITY**

- 3.1 The Committee is authorised by the Council of Governors to:
- (a) investigate any activity within its terms of reference;
  - (b) make recommendations to the Council of Governors;
  - (c) act in accordance with the trust’s Constitution;
  - (d) subject to funding approval by the Board of Directors, request the advice of professionals or other individuals or authorities from outside of the trust with relevant experience or expertise if it considers this necessary for, or expedient to, the exercise of its functions;
  - (e) requests such information as is necessary and expedient to fulfil its functions.

**4 CONFLICTS OF INTEREST**

- 4.1 The Chairman on the trust, or any Non-Executive Director present at Committee meetings, will withdraw from discussion concerning their own re-appointment, remuneration or terms and conditions.

**5 MEMBERSHIP**

- 5.1 The Committee shall consist of :
- (a) the Chairman of the trust (where the Chairman has a conflict of interest, the committee will be chaired by the Senior Independent Director or a Governor member of the Committee);
  - (b) Governors appointed by the Council of Governors
- 5.2 The membership of the Committee will be disclosed in the annual report.
- 5.3 Only members of the Committee have the right to attend meetings, there is no provision for deputies to attend.

## **6 ATTENDANCE**

- 6.1 The following non-voting attendees will attend meetings of the Committee:
- (a) the Chief Executive (when appropriate);
  - (b) the Executive Director of Workforce (or the Deputy Director of Workforce);
  - (c) the Trust Secretary;
  - (d) the Deputy Trust Secretary;
  - (e) Minute Secretary.
- 6.2 The chair of the Committee may also extend invitations to other personnel with relevant skills, experience or expertise as necessary to enable it to deal with matters before the Committee, subject to paragraph 3.1(d) above.

## **7 QUORUM**

- 7.1 A quorum shall be attendance of the majority of members.
- 7.2 Non-voting attendees nor invited attendees shall not be considered when considering if the meeting is quorate.

## **8 FREQUENCY**

- 8.1 Meetings shall be held as required, but at least a minimum of twice a year.

## **9 DUTIES**

- 9.1 **Nomination Role** - the Committee will:
- (a) periodically review the balance of skills, knowledge, experience and diversity of the Non-Executive Directors and, having regard to the views of the Board of Directors and relevant guidance on board composition, make recommendations to the Council of Governors with regard to the outcome of the review;
  - (b) review the results of the Board of Directors' performance evaluation process that relate to the composition of the Board of Directors;
  - (c) review annually the time commitment requirement for Non-Executive Directors;
  - (d) give consideration to succession planning for Non-Executive Directors, taking into account the challenges and opportunities facing the trust and the skills and expertise needed on the Board of Directors in the future;
  - (e) make recommendations to the Council of Governors concerning plans for succession, particularly for the key role of the Chairman;

- (f) keep the leadership needs of the trust under review at non-executive level to ensure the continued ability of the trust to operate effectively in the health economy;
- (g) keep up-to-date and fully informed about strategic issues and commercial changes affecting the trust and the environment in which it operates;
- (h) agree with the Council of Governors a clear process for the nomination of a Non-Executive Director;
- (i) take into account the views of the Board of Directors on the qualifications, skills and experience required for each position;
- (j) for each appointment of a Non-Executive Director, prepare a description of the role and capabilities and expected time commitment required;
- (k) identify and nominate suitable candidates to fill vacant posts within the committee's remit, for appointment by the Council of Governors;
- (l) ensure that a proposed Non-Executive Director's other significant commitments are disclosed to the Council of Governors before appointment and that any changes to their commitments are reported to the Council of Governors as they arise;
- (m) ensure that proposed appointees disclose any business interests that may result in a conflict of interest prior to appointment and that any future business interests that could result in a conflict of interest are reported;
- (n) ensure that on appointment Non-Executive Directors receive a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, committee service and involvement outside Board of Director meetings;
- (o) ensure that Non-Executive Directors meet the fit and proper persons test;
- (p) advise the Council of Governors in respect of the re-appointment of any Non-Executive Director. Any term beyond six years must be subject to a particularly rigorous review;
- (q) advise the Council of Governors in regard to any matters relating to the removal of office of a Non-Executive Director;
- (r) make recommendations to the Council of Governors on the membership of committees as appropriate, in consultation with the chairs of those committees.

**9.2 Remuneration role** - the Committee will:

- (a) recommend to the Council of Governors a remuneration and terms of service policy for Non-Executive Directors, taking into account the views of the Chairman (except in respect of his / her own remuneration and terms of service) and the Chief Executive and any external advisers;

- (b) in accordance with all relevant laws and regulations, recommend to the Council of Governors the remuneration and allowances, and the other terms and conditions of office, of the Non-Executive Directors;
- (c) agree the process and receive and evaluate reports about the performance of individual Non-Executive Directors and consider this evaluation output when reviewing remuneration levels;
- (d) in adhering to all relevant laws and regulations establish levels of remuneration which:
  - (i) are sufficient to attract, retain and motivate Non-Executive Directors of the quality and with the skills and experience required to lead the trust successfully, without paying more than is necessary for this purpose, and at a level which is affordable for the trust,
  - (ii) reflect the time commitment and responsibilities of the roles,
  - (iii) take into account appropriate benchmarking and market-testing, while ensuring that increases are not made where trust or individual performance do not justify them, and
  - (iv) are sensitive to pay and employment conditions elsewhere in the trust;

9.3 oversee other related arrangements for Non-Executive Directors.

## **10 REPORTING**

10.1 The Committee will have the following reporting requirements:

- (a) to ensure that the minutes of its meetings are formally recorded and submitted to the Council of Governors, supported by a chair's report (unless a conflict of interest or matter of confidentiality exists);
- (b) to ensure that any issues that require disclosure to the Council of Governors are brought to the attention of the Council of Governors.

10.2 The Committee will report to the Council of Governors annually on its work.

10.3 The Committee will outline its work to the Council of Governors through an annual work plan and will provide assurance to the Council of Governors of compliance with the requirements of these terms of reference through the development and presentation of an annual report, presented at the end of the financial year.

## **11 RESPONSIBILITY OF GOVERNORS AND ATTENDEES**

11.1 Governors of the Committee have a responsibility to:

- (a) attend a minimum of 75% of meetings a year, having read all papers beforehand;
- (b) agree an annual business cycle for the Committee;

- (c) act as 'champions', disseminating information and good practice as appropriate,

## **12 ADMINISTRATIVE ARRANGEMENTS**

12.1 The Trust Secretary will ensure:

- (a) that the Committee receives sufficient resources to undertake its duties;
- (b) correct minutes of meetings are taken and once agreed by the chair that they are distributed to the members (unless a conflict of interest or matter of confidentiality exists);
- (c) the minutes of the meeting are distributed within 10 working days of the meeting taking place;
- (d) a record of matters arising is produced with issues to be carried forward;
- (e) an action list is produced following each meeting and any outstanding action is carried forward on the action list until complete;
- (f) conflicts of interest are recorded along with the arrangements for managing those conflicts;
- (g) appropriate support to the chair and Committee members to enable them to fulfil their role;
- (h) that advice is provided to the Committee on pertinent areas;
- (i) the agenda is agreed with the chair prior to sending papers to members no later than five working days before the meeting;
- (j) management of the Committee's annual business cycle;
- (k) the papers of the Committee are filed in accordance with the trust's policies and procedures.

12.2 The Trust Secretary will collate the Committee's annual report and agree the ways of working to enable the Committee to meet the wide range of responsibilities set out in these terms of reference.

## **13 REVIEW**

13.1 Terms of reference will be reviewed at least annually by the Committee and the Council of Governors.

**- SECTION 5C -**

**MEMBERSHIP AND ENGAGEMENT COMMITTEE**  
**TERMS OF REFERENCE**

**14 CONSTITUTION**

- 14.1 The Council of Governors hereby resolves to establish a Membership and Engagement Committee to be known as the (referred to as the “Committee” below). The Committee is authorised by the Council of Governors to act within its terms of reference.

**15 ACCOUNTABILITY**

- 15.1 The Committee is accountable to the Council of Governors and the Council of Governors must approve any changes to these terms of reference.

**16 AUTHORITY**

- 16.1 The Committee is authorised by the Council of Governors to:
- (a) investigate any activity within its terms of reference;
  - (b) make recommendations to the Council of Governors;
  - (c) act in accordance with the trust’s Constitution;
  - (d) subject to funding approval by the Board of Directors, request the advice of professionals or other individuals or authorities from outside of the trust with relevant experience or expertise if it considers this necessary for, or expedient to, the exercise of its functions;
  - (e) request such information as is necessary and expedient to fulfil its functions.

**17 MEMBERSHIP**

- 17.1 The Committee shall consist of :
- (a) Governors appointed by the Council of Governors:
- 17.2 The membership of the Committee will be disclosed in the annual report.
- 17.3 Only members of the Committee have the right to attend meetings, there is no provision for deputies to attend.

**18 ATTENDANCE**

- 18.1 The following non-voting attendees will attend meetings of the Committee:
- (a) the Trust Secretary;
  - (b) the Deputy Trust Secretary;

- (c) Membership Manager;
- (d) Communications Officer;
- (e) People Participation Team Representative,
- (f) Minute Secretary.

18.2 The chair of the Committee may also extend invitations to other personnel with relevant skills, experience or expertise as necessary to enable it to deal with matters before the Committee, subject to paragraph 3.1(d) above.

## **19 QUORUM**

19.1 A quorum shall be 6 members.

19.2 Non-voting attendees nor invited attendees shall not be considered when considering if the meeting is quorate.

## **20 FREQUENCY**

20.1 Meetings shall be held as required, but at least a minimum of twice a year.

## **21 DUTIES**

21.1 The Committee will carry out the duties below:

- (a) Advise on the review and implementation of the Trust's Membership Strategy;
- (b) Evaluate progress towards achieving the objectives of the Membership Strategy and make recommendations to the Council of Governors as appropriate;
- (c) Regularly review membership data;
- (d) Advise on the development of effective membership recruitment mechanisms that recognise particular issues of recruiting from 'hard to reach' groups and will facilitate a fully representative membership;
- (e) Advise on the development of mechanisms to ensure two way communications between Governors and members;
- (f) Receive a report on the process for and outcome of the periodic election of Governors and make recommendations to the Council of Governors as appropriate;
- (g) Advise on the process to be in place for Governors to be involved in agreeing the relevant content for the Mersey Care Magazine to ensure work of the Governors is effectively communicated to the Trust's members and the wider public;

- (h) Agree an annual report of the Committee's activities, including progress in implementation of the membership strategy, for submission to the Council of Governors for approval;
- (i) Agree an annual cycle of business for the activities of the Committee in line with these terms of reference during each financial year for submission to the Council of Governors for approval.

## **22 REPORTING**

- 22.1 The Committee will have the following reporting requirements:
- (a) to ensure that the minutes of its meetings are recorded and submitted to the Council of Governors, supported by a chair's report
  - (b) to ensure that any issues that require disclosure to the Council of Governors are brought to the attention of the Council of Governors.
- 22.2 The Committee will outline its work to the Council of Governors through an annual work plan and will provide assurance to the Council of Governors of compliance with the requirements of these terms of reference through the development and presentation of an annual report, presented at the end of the financial year.

## **23 RESPONSIBILITY OF GOVERNORS AND ATTENDEES**

- 23.1 Governors of the Committee have a responsibility to:
- (a) attend a minimum of 50% of meetings a year, having read all papers beforehand;
  - (b) agree an annual business cycle for the Committee;
  - (c) act as 'champions', disseminating information and good practice as appropriate,

## **24 ADMINISTRATIVE ARRANGEMENTS**

- 24.1 The Trust Secretary will ensure:
- (a) that the Committee receives sufficient resources to undertake its duties;
  - (b) correct minutes of meetings are taken and once agreed by the chair that they are distributed to the members (unless a conflict of interest or matter of confidentiality exists);
  - (c) the minutes of the meeting are distributed within 10 working days of the meeting taking place;
  - (d) a record of matters arising is produced with issues to be carried forward;
  - (e) an action list is produced following each meeting and any outstanding action is carried forward on the action list until complete;



- (f) conflicts of interest are recorded along with the arrangements for managing those conflicts;
- (g) appropriate support to the chair and Committee members to enable them to fulfil their role;
- (h) that advice is provided to the Committee on pertinent areas;
- (i) the agenda is agreed with the chair prior to sending papers to members no later than five working days before the meeting;
- (j) management of the Committee's annual business cycle;
- (k) the papers of the Committee are filed in accordance with the trust's policies and procedures.

24.2 The Trust Secretary will collate the Committee's annual report and agree the ways of working to enable the Committee to meet the wide range of responsibilities set out in these terms of reference.

## **25 REVIEW**

25.1 Terms of reference will be reviewed at least annually by the Committee for the approval of the Council of Governors.

**- SECTION 6A -**

**THE ROLE OF THE GOVERNOR**

- 1 The Governor's role in Mersey Care NHS Foundation Trust is to develop robust and challenging working relationships with the Board of Directors to ensure that the views of local communities are represented and to support the Trust's vision, mission and strategic goals.
- 2 The Governor is a member of a Council made up of elected local people; staff members; service users and carers together with people appointed to represent local partner organisations.
- 3 The Council of Governors has certain responsibilities that are set out in Acts of Parliament such as the Health and Social Care Act 2012, and the National Health Service Act 2006. These statutory responsibilities are:
  - (a) To represent the interests of the members of the Trust as a whole and the interests of the public
  - (b) To hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors
  - (c) To give a response when consulted by the Board of Directors on the Trust's Annual Plan
  - (d) To appoint and (if necessary) remove the Trust Chair and Non-Executive Directors
  - (e) To receive performance appraisal information regarding the Trust Chair and Non- Executive Directors
  - (f) To set the pay and terms and conditions of appointment for the Trust Chair and Non-Executive Directors
  - (g) To approve the appointment of the Chief Executive. However, the Council of Governors does not appoint the Chief Executive
  - (h) To appoint or (if necessary) remove the Trust's external auditors
  - (i) To receive the Trust's Annual Report and Accounts, and the Auditor's report
  - (j) To inform NHS Improvement (Monitor), via the Lead Governor, if there are any concerns about the actions of the Board of Directors which cannot be resolved locally
  - (k) To satisfy itself that proposals in the annual plan (other than those relating to the provision of health services in England) will not significantly interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions

- (l) To approve any proposal to increase by 5% or more the proportion of the Trust's total annual income from activities other than the provision of health services in England
- (m) To approve any applications for significant transactions as defined in the Constitution
- (n) To approve any applications for mergers, acquisitions, separation or dissolution of the Trust
- (o) To agree, in conjunction with the Board of Directors, changes to the Trust's constitution

## **OTHER RESPONSIBILITIES**

- 4 The Council of Governors has other responsibilities which are not set out in law. These include:
- (a) To support the Board of Directors in setting the long-term strategic direction for the Trust
  - (b) To be assured that that the Trust does not breach its Licence Conditions
  - (c) To develop a representative membership base by overseeing the implementation of the Trust's Membership Strategy and by direct engagement with members at events and meetings
  - (d) To provide a governor perspective on the efficacy of staff engagement mechanisms
- 5 As a Governor you are expected:
- (a) To promote and support the organisation's strategy
  - (b) To feed back information about the Trust, its vision and its performance to members or stakeholder organisations
  - (c) To attend meetings of the Council of Governors
  - (d) To abide by the Code of Conduct and uphold the Trust's values
  - (e) To act in the best interests of the Trust and preserve the Trust's standing and reputation
  - (f) To comply with the policies and procedures of the Trust, including its Licence and Constitution

**WHAT GOVERNORS CAN'T DO....**

- 6 Overall responsibility for running the Trust lies with the Board of Directors. There are therefore some things that you cannot do as a Governor:
- (a) You will not be involved in the day to day running of the Trust, e.g. setting budgets, staff pay or any other operational matters.
  - (b) You cannot veto or over-rule decisions made by the Board of Directors.
  - (c) You don't play a part in considering the appointment or dismissal, appraisal, pay levels or conditions of service of Executive Directors
  - (d) You should not raise complaints on behalf of individuals, or act as advocates
  - (e) Inspect the Trust's services (this task is carried out by the Care Quality Commission and Healthwatch).
  - (f) Represent the interests of single pressure groups.

## - SECTION 6B -

### THE ROLE OF THE LEAD GOVERNOR

#### INTRODUCTION

- 1 NHS Improvement (Monitor)'s expectation in relation to the role of Lead Governor is set out in Appendix B of the NHS Foundation Trust Code of Governance. The continuing requirement and scope of the role, from a NHS Improvement (Monitor) perspective, is further clarified in the publication *Your Statutory Duties: A reference guide for NHS Foundation Trust Governors*.
- 2 The Lead Governor will be appointed by the Council of Governors from amongst the Governors. Any Governor, whether appointed or elected, public or staff, may be appointed as the Lead Governor.
- 3 The process for the appointment of a Lead Governor will be coordinated by the Trust Secretary. Candidates for the position of Lead Governor will be invited to self-nominate by means of a statement to the Council setting out their suitability for the role.
- 4 The Council of Governors will consider nominations and elect a candidate by means of a ballot at a general meeting. The candidate polling the highest number of votes will be appointed. Where an equality of votes is found to exist, the Trust Secretary will decide between the candidates by a lot and proceed as if the candidate on whom the lot falls had received an additional vote.

#### THE LEAD GOVERNOR ROLE

- 5 The Lead Governor will:
  - (a) Act as the principal point of contact for NHS Improvement (Monitor), where contact via the Chairman or Trust Secretary would be inappropriate
  - (b) In circumstances where contact has been made by NHS Improvement (Monitor), engage with, and seek the views of, the other members of the Council (the Trust Secretary will support the Lead Governor in facilitating engagement if appropriate)
  - (c) Act as the principal point of contact for the Senior Independent Director in seeking Governors' views on the Chairman's performance
  - (d) Collate the input of Governors for the Chairman or Senior Independent Director regarding annual performance appraisals of the Chairman and Non-Executive Directors.
  - (e) Lead Governor representation on the Nominations Committee for the recruitment, selection and nomination for appointment of the Chairman and Non-Executive Directors

- (f) Lead the Council of Governors in circumstances where it would be inappropriate for the Chairman or Deputy Chairman to do so

## **GENERAL**

- 6 The following general provisions will apply to the role of Lead Governor:
- (a) The term of office will be one year or the remainder of the individual's elected / appointed term, whichever is shorter
  - (b) The Council of Governors reserves the right to replace the Lead Governor if a majority of members present at a Council meeting resolve to do so. Such action would follow from a written resolution to this effect submitted by a member of the Council at the meeting. The Council would take a decision on the resolution at the following meeting.
  - (c) The Lead Governor may terminate their appointment at any time by means of a written notice to the Trust Secretary
  - (d) The Lead Governor will provide relevant contact details to the Trust Secretary to advise NHS Improvement (Monitor) and will update these details as and when appropriate

## **REVIEW**

- 7 This role description will be reviewed by the Council of Governors on the occasion of any change in the Lead Governor.