

Council of Governors – Terms of Reference

1. Introduction

- 1.1 The Council of Governors is a key element of the governance structure of the Trust. Its role includes holding the Non-Executive Directors to account, individually and collectively, for the performance of the Board of Directors. The Council further represents the interests of members and their communities to understand their needs and priorities, and uses that understanding to influence the strategic direction of the Trust. It also carries out a number of statutory duties in support of those functions which are outlined in section 10.
- 1.2 The Council of Governors is made up of elected and appointed Governors and its composition is set out in the Trust Constitution.
- 1.3 The Chairperson of the Trust is responsible for leading the Council of Governors.

2. Membership

- 2.1 The composition of the Council of Governors is set out in annex 3 of the Constitution.
- 2.2 The Chairperson of the Trust shall not be a member of the Council of Governors, however he/she will preside over meetings of the Council of Governors.
- 2.3 The Vice-Chairperson of the Trust shall act in the absence or conflict of the Chairperson.

3. Attendance

- 3.1 Only members of the Council of Governors and the Chairperson of the Trust shall be entitled to attend development meetings and any other strategic sessions called for the Governors. Members of the public are permitted to attend general meetings of the Council of Governors, either in person or virtually.
- 3.2 Members of the Council must ensure that wherever possible they attend three general meetings in any one financial year either in person or virtually.
- 3.3 The record of attendance of members of the Council of Governors will be included in the Annual Report of the Trust.

- 3.4 Governors can request one or more Trust Directors, or a representative of the Trust auditors to attend a meeting to obtain information about the Trust's performance, or information about how the directors have performed their duties.
- 3.5 Other officers of the Trust and other individuals may be invited to attend meetings or part of a meeting as required by the Council of Governors or as the Chairperson of the Trust sees fit.
- 3.6 In accordance with The NHS Foundation Trust Code of Governance, it is expected that the Council of Governors will invite the Chief Executive to attend all of its general meetings.

4. Secretary

- 4.1 The Trust secretary or a nominee shall act as secretary to the Council of Governors.

5. Quorum

- 5.1 No business shall be transacted at meetings of the Council of Governors unless one-third of the whole number of Governors is present. This must include at least one-third of the Governors elected by the public constituency. A duly convened meeting of the Council of Governors at which a quorum is present shall be deemed competent to exercise all or any of the authorities, powers or discretions vested in or exercisable by the Trust.
- 5.2 Individual Governors will attend meetings in person although, with the agreement of the Chairperson of the meeting, Governors may participate by video-conference. In such circumstances they will be deemed to be present and will constitute part of the quorum for the purposes of that meeting.

6. Voting

- 6.1 Members of the Council of Governors will each be entitled to cast a single vote on matters before it.
- 6.2 Governors participating by video-conference will have the ability to exercise their vote remotely.
- 6.3 In the event of an equality of votes, the Chairperson of the Trust or person presiding over the meeting shall have a second or casting vote.
- 6.4 Governors who are absent at the time of a vote may not vote by proxy.

7. Meetings of the Council of Governors

- 7.1 It is the practice of the Trust to alternate meetings of the Governors between general meetings and development meetings. Development meetings will focus on training and development opportunities on pertinent Trust issues. All formal business of the Council shall be conducted in general meetings.

- 7.2 General meetings of the Council will be held on at least four occasions each year at a location that it may determine.
- 7.3 One of the general meetings shall be the combined Annual General meeting/Annual Members' meeting.
- 7.4 General meetings of the Council shall be open to members of the public unless they are to be excluded for special reasons, in line with the Trust's Constitution and Standing Orders.

8. Notice of meetings

- 8.1 Meetings of the Council of Governors shall be called by the Trust secretary or the Foundation Team in accordance with the annual schedule of business or as determined by the Chairperson of the Trust.
- 8.2 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Council and any other person required to attend, no later than five clear working days before the date of the meeting. Supporting papers shall be sent to members and other attendees as appropriate at the same time.

9. Minutes of meetings

- 9.1 The Trust secretary, a member of the Foundation Team or a nominated deputy, shall minute the proceedings and resolutions of all meetings of the Council, including the names of those present, in attendance, and those for whom apologies have been received in advance of the meeting.
- 9.2 The secretary shall keep a separate record of all points of action arising from the meetings and all issues carried forward.
- 9.3 The secretary shall ascertain, at the beginning of each meeting, the existence of any conflicts of interest and minute them accordingly.

10. Duties

The duties of the Council of Governors are to:

- 10.1 Appoint, re-appoint, or, if appropriate, remove the Chairperson and other Non-Executive Directors of the Trust having taken account of the recommendations of the Nomination, Remuneration and Development Committee.
- 10.2 Agree the remuneration, allowances, and other terms and conditions of office of the Chairperson and other Non-Executive Directors of the Trust having taken account of the recommendations of the Nomination, Remuneration and Development Committee.
- 10.3 Approve the appointment of the Trust's Chief Executive having taken into account the recommendation by the Non-Executive Directors.

- 10.4 Hold the Non-Executive Directors, individually and collectively, to account for the performance of the Board of Directors. The mechanisms which enable the Governors to do this are:
 - 10.4.1 Attendance by Governors at Public Board meetings.
 - 10.4.2 Attendance by Governors at key Board Committees.
 - 10.4.3 Reports to the Council of Governors from Non-Executive Directors who Chair Board Committees. The reports will include a summary of the work undertaken by the Committee and key actions taken to be assured that the performance of the Trust's robust.
 - 10.4.4 Appointment of external auditors to independently scrutinise the year-end Annual Report and Accounts and Quality Account.
 - 10.4.5 The establishment of a Governors' External Audit Panel to scrutinise the work of the Audit Committee.
 - 10.4.6 The establishment of a Nominations, Remuneration and Development Committee to appoint Non-Executive Directors, review their terms of office and receive the summary of annual appraisals of Non-Executive Directors.
 - 10.4.7 Attendance by Governors at constituency meetings which can be attended by Non-Executive Directors.
 - 10.4.8 Questions on notice during Council of Governors General meetings.
- 10.5 Ensure that adequate information is received by the Council of Governors for it to understand the business of the Trust and hold the Board of Directors to account.
- 10.6 Engage with the Board of Directors in respect of any matter that gives the Council of Governors' cause for concern regarding the Board's performance or risk of breach of the Trust's provider licence.
- 10.7 If the concerns in 10.6 cannot be resolved locally, notify NHS Improvement of the Council of Governors concerns of a risk of breach of the Trust's provider licence.
- 10.8 Agree with the Audit Committee the criteria for appointing, re-appointing or removing the auditor having taken into account the recommendations of the Governors' External Audit Panel.
- 10.9 Approve the appointment, re-appointment, remuneration, and terms of engagement or removal of the auditor having regard to the recommendation of the Audit Committee and Governors' External Audit Panel.
- 10.10 Ensure that the Board of Directors have regard to the views of the Council of Governors in preparing the Trust's forward plan, including the Quality Account.
- 10.11 Receive the Annual report and Accounts and the report of the auditor thereon.

- 10.12 Approve significant transactions as defined by the Trust's Constitution. More than half of the members of the Council of Governors must approve any significant transaction.
- 10.13 Approve an application by the Trust to enter into a merger, acquisition, separation or dissolution. More than half of the members of the Council of Governors must approve any application.
- 10.14 As a Council, decide if the Trust's non-NHS work would significantly interfere with its principal purpose, to provide goods and services for the health service in England, or performing its other functions.
- 10.15 Approve amendments to the Trust's Constitution.
- 10.16 Represent the interests of the members. Ensure, via the establishment of a Membership Strategy Committee, that there are two-way channels of engagement established between Governors and members. Governors will seek to obtain the views of the members and public and feedback information to the Board. Enabling the needs of members to be identified and in turn, the Trust's plans can be reported back to members/public by Governors.
- 10.17 Approve a membership/engagement strategy to ensure that the Trust's membership body is representative of the communities served by the Trust and that views of the membership are represented appropriately and taken into account.
- 10.18 Promote membership of the Trust by supporting the recruitment of members in line with the membership/engagement strategy.
- 10.19 To participate in opportunities organised by the Foundation Team to understand the patient experience within the Trust such as PLACE visits.
- 10.20 In accordance with the provisions of the Trust Constitution and the Code of Conduct for members of the Council of Governors, consider a motion from the Chairperson of the Trust for the removal of any governor from the Council of Governors.
- 10.21 Review and, if appropriate, agree changes in the terms of reference and membership for Council of Governors' statutory committees.
- 10.22 Approve the appointment of governor representatives on Board Committees and Trust working groups, as appropriate.
- 10.23 Approve the appointment of the Lead Governor.
- 10.24 To abide by the principles, and sign up to, the Council of Governors Code of Conduct.

11. Council of Governors

- 11.1 The Council of Governors may establish and delegate powers to formally constituted Committees.

11.2 Committees/groups established by the Council of Governors:

- Membership Strategy Committee
- Nomination, Remuneration and Development Committee
- Governors' External Audit Panel.

12. Authority

12.1 The Council of Governors is authorised to act within its terms of reference.

13. Review of effectiveness

13.1 The Council of Governors will conduct an annual review of its effectiveness.

14. Review and revision

14.1 These terms of reference will be reviewed annually and may be amended by the approval of the majority of the Board of Directors and the Council of Governors.

Last reviewed July 2021