

## Council of Governors

### Terms of Reference

**(Ratified by the Council of Governors on the 2 November 2021)**

#### 1 NAME OF GROUP

Council of Governors

#### 2 COMPOSITION OF THE COUNCIL

The membership of the Council of Governors is determined by Annex 4 of the Constitution, and is made up of both elected and appointed governors totalling 30.

Membership is set out below.

#### Elected Governors

Constituency	Area	Number of Governor Seats
Public	Leeds	6
	York and North Yorkshire	1
	Rest of England and Wales	1
Service User and Carer	Service User Leeds	4
	Service User York and North Yorkshire	1
	Carer Leeds	3
	Carer York and North Yorkshire	1
	Service User and Carer Rest of United Kingdom	1
	Staff	Clinical Staff Leeds and York & North Yorkshire
	Non-Clinical Staff Leeds and York & North Yorkshire	2

#### Appointed Governors

##### Local Authority Governors

City of York Council	1
Leeds City Council	1

##### Partner Organisation Governors

Director for Children and Families Programme, West Yorkshire and Harrogate Integrated Care System	1
Volition - Leeds (mental health representative)	1
Volition - Leeds (learning disabilities representative)	1
York Council for Voluntary Services	1

In accordance with NHS Improvement's Code of Governance it is expected that the Council of Governors will invite the Chief Executive (or their Deputy) to attend all its general meetings, and that other executive directors will be invited to attend as appropriate and non-executive directors will be encouraged to attend all meetings where possible. Over and above the normal performance

reports there may be occasions where directors are formally requested to attend Council meetings to explain concerns about performance. It is anticipated that this will be only on rare occasions and such an occasion will be reported in the Annual Report.

The Council may invite other people to attend its meetings on an ad-hoc basis, as it considers necessary and appropriate.

The Associate Director for Corporate Governance (or nominated deputy) acting in the capacity of Trust Board Secretary, shall attend each meeting and provide appropriate advice and support to the Chair of the Trust and Council members.

Members of the Council of Governors must ensure that wherever possible they attend every Council meeting. Attendance at meetings will be monitored and shall be reported in the Annual Report. Attendance will be monitored by the Associate Director for Corporate Governance, who will escalate any concerns about the non-attendance of individual governors to the Chair of the Trust as is necessary.

### **3 QUORACY**

No business shall be transacted at a meeting of the Council of Governors unless at least one third of the whole number of governors elected or appointed are present; and that of those governors present service user, carer and public governors are in the majority.

**Deputies:** There is no constitutional provision for a deputy to attend on behalf of a governor

**Non-quorate meeting:** Non-quorate meetings may go ahead unless there has been an instruction from the Chair not to proceed with the meeting. Any decisions made by the non-quorate meeting must be reviewed at the next quorate meeting.

**Alternate chair:** The Chair of the Council of Governors shall be the Chair of the Trust. In the absence of the Chair of the Trust, (or in the event of the Chair declaring an interest in an agenda item) the Deputy Chair shall chair the meeting. Should the Deputy Chair not be available (or where they too have declared an interest in an agenda item), the meeting shall be chaired by one of the governors present at the meeting, this shall normally be the Lead Governor.

### **4 MEETINGS OF THE GROUP**

Meetings may be held face-to-face or remotely as is considered appropriate. Remote meetings may involve the use of the telephone and / or electronic conference facilities.

**Frequency:** Meetings of the Council of Governors shall be held at such times as the Council may determine, however the Council of Governors will normally meet four times a year (plus the Annual Members' Meeting) with all or part of these meetings being held in public. This shall not preclude any items of business being conducted in private and any items taken in private will be determined in accordance with pre-arranged criteria.

A full set of papers comprising the agenda, minutes of the previous meeting and associated reports and papers will be sent within the timescale set out in the Standing Orders to all governors and others as may be agreed with the Chair from time to time.

**Urgent meeting:** Any governor may, in writing to the Chair, request an urgent meeting. The Chair will normally agree to call an urgent meeting to discuss the specific matter unless the opportunity exists to discuss the matter in a more expedient manner.

**Minutes:** The Associate Director for Corporate Governance shall ensure the minutes of the meeting are taken and will also ensure these are presented to the next Council of Governors' meeting, and that these are signed by the person presiding at the meeting.

The agenda, minutes and Council papers of each general meeting (excluding any confidential papers) shall be displayed on the Trust website.

## 5 AUTHORITY

**Establishment:** The Trust shall establish a Council of Governors in accordance with the requirements of the NHS Act 2006, and paragraph 10 of its Constitution.

**Powers:** Its powers are detailed in the NHS Act 2006; NHS Improvement's NHS Foundation Trusts' Code of Governance; and the Trust's Scheme of Delegation.

**Cessation:** The Council of Governors is a statutory body and as such must remain for as long as it is empowered in statute.

## 6 ROLE OF THE GROUP

### 6.1 Purpose of the Group

The general statutory duties of the Council of Governors are to:

- Hold the non-executive directors to account (both collectively and individually) for the performance of the Board of Directors
- Represent the interests of the members of the Trust as a whole and the interests of the public

- Influence the forward plans of the Trust.

## **6.2 Guiding principles for members (and attendees) when carrying out the duties of the Council of Governors**

In carrying out their duties, members of the Council of Governors and any attendees must ensure that they act in accordance with the values of the Trust which are:

- We have integrity
- We are caring
- We keep it simple.

Governors must also abide by the “Council of Governors’ Code of Conduct and Standards of Behaviour”, which all Governors must sign. Governors must also have regard for the “Council of Governors’ Meeting Etiquette”.

## **6.3 Duties of the Council of Governors**

The Council of Governors will be required to carry out a number of statutory duties under the NHS Act 2006 (as amended by the Health and Social Care Act 2012). These are contained in the Constitution and are as follows (for avoidance of doubt the wording in the Constitution shall take precedence should there be any conflict between this document and the Constitution):

- Hold the non-executive directors to account (both collectively and individually) for the performance of the Board of Directors
- Represent the interests of the members of the Trust as a whole and the interests of the public
- Influence the forward plans of the Trust
- Appoint and, if appropriate, remove the Chair
- Appoint and, if appropriate, remove the other non-executive directors
- Decide the remuneration and allowances, and the other terms and conditions of office, of the Chair of the Trust and the other non-executive directors
- Approve the appointment of the Chief Executive
- Appoint the Deputy Chair of the Trust
- Appoint and, if appropriate, remove the Trust’s auditor (i.e. the organisation that will, amongst other things, check the Trust’s finances each year)

- Receive the Trust's annual accounts, any report of the auditor on them and the annual report
- Require one or more of the directors or a representative of the Trust's auditors to attend a meeting to obtain information about the Trust's performance, or information about how the directors have performed their duties in order to determine if there is a need to vote on issues concerning that performance
- Approve (or not) by vote:
  - The implementation of any proposals to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England
  - Entering into a significant transaction (a significant transaction is defined in the Constitution)
  - An application to NHS Improvement (one of our regulators) for a merger with or the acquisition of another foundation trust or NHS trust
  - An application to NHS Improvement for the separation or dissolution of the foundation trust
  - Amendments to the Constitution.
- Determine whether it is satisfied that any proposals to carry out activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes will not, to any significant extent, interfere with the Trust's provision of NHS services and notify the Board of its view.

The Council of Governors is also responsible for:

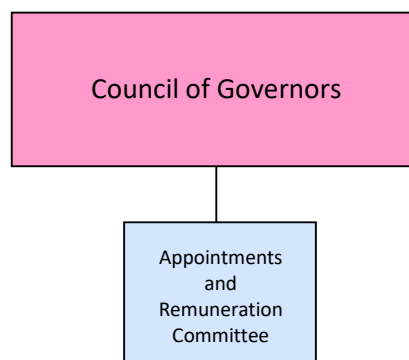
- Considering complaints about any member of the Trust in accordance with Annex 9 of the Constitution and take action which may include expulsion from the membership of the Trust
- Ratifying the removal of any member of the Council of Governors for any reason as set out in Annex 6 of the Constitution
- Agreeing a clear process for the appointment of the Chair of the Trust and the other non-executive directors
- Supporting the process for the evaluation or appraisal of the Chair of the Trust and the other non-executives, including the outcomes of the evaluation of the Chair of the Trust and the non-executive directors

- Receiving a high-level report on the outcome of the evaluation or appraisal of the Chair of the Trust or the other non-executive directors
- Assessing its own collective performance and its impact on the Trust and communicate to members how governors have discharged their duties
- Taking the lead in agreeing with the Audit Committee the criteria for appointing, reappointing and removing external auditors
- Establishing a policy for engagement with the Board of Directors for those circumstances when they have concerns about the performance of the Board of Directors or other matters related to the general wellbeing of the Trust
- Agreeing with the executive directors what information it needs to receive at its meetings
- Agreeing who from amongst the governors should be appointed as the Lead Governor
- Responding as appropriate to any matter when referred by the Board of Directors
- Participating in the development of the Trust's strategy and values.

## **7 RELATIONSHIP WITH OTHER GROUPS AND COMMITTEES**

The Council of Governors may delegate some of its powers to formally constituted committees. Formally constituted committee of the Council of Governors is the Appointments and Remuneration Committee.

The sub-committee structure is detailed below.



## **8 DUTIES OF THE CHAIRPERSON**

The Chair of the Council shall be responsible for:

- Agreeing the agenda with the Corporate Governance Team as directed by the Associate Director for Corporate Governance
- Directing the conduct of the meeting ensuring it operates in accordance with the Trust's values
- Giving direction to the secretariat
- Ensuring all governors have an opportunity to contribute to the discussion
- Ensuring the agenda is balanced and discussions are productive, and when they are not productive they are efficiently brought to a conclusion
- Deciding when it is beneficial to vote on a motion or decision.
- Checking the minutes
- Ensuring sufficient information is presented to the Board of Directors in respect of the matters discussed by the Council and ensuring that issues raised by the Board of directors are appropriately reported to the Board.

## **9 REVIEW OF THE TERMS OF REFERENCE AND EFFECTIVENESS**

The Terms of Reference shall be reviewed and ratified annually by the Council of Governors.

The Council of Governors should also carry out an assessment of how effectively it is carrying out its duties and act upon any recommendations for improvement. This will normally be done through one to one discussions between governors and the Chair of the Trust.