

# Council of Governors: Code of Conduct for Governors

February 2023

Version 8

### Document Information

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Constitution, Standing Orders, Council of Governors Rules of Procedure, Rules of Procedure for Members Meetings.			

### Amendment History

Date	Reason for Change	Authorised
March 2007	First Code of Conduct published	CoSec
13 July 2011	Nomenclature	CoSec
15 July 2014	Nomenclature e.g. Governance Board to Council of Governors	CoSec
January 2016	New logo and reference to new Trust name	CoSec
April 2019	Complete review	CoSec
October 2021	Update to reflect new job title of the Director of Corporate Governance and Trust Secretary. Paragraph 3.2 amended to reflect wording in the Trust's Constitution.	Chair
February 2023	Minor updates to reflect updated nomenclature, alignment with the Trust's Constitution, and updated Media Policy.	Chair

## **CODE OF CONDUCT FOR GOVERNORS**

### **1. INTRODUCTION**

- 1.1 This code of conduct sets out the standards and behaviour that Torbay and South Devon NHS Foundation Trust (hereafter referred to as 'the Trust') expects from the Council of Governors (individually and collectively) when acting on behalf of, or representing, the Trust.
- 1.2 This code of conduct should be read in conjunction with:
- (a) the Trust's Constitution and licence;
  - (b) the Trust's policy and procedures covering conflicts of interest and counter fraud policies;
  - (c) the Trust's Standing Orders and Council of Governors rules of procedure;
  - (d) NHS England's Code of Governance for NHS Provider Trusts, and Your statutory duties: A reference guide for NHS Foundation Trust Governors; and
  - (e) the NHS Constitution.

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

- 2.1 The Board of Directors of the Trust 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.
- 2.2 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.
- 2.3 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.
- 2.4 The Constitution of the Trust makes provision for Governor elections, the appointment of governors, practice and procedure of governors, and ultimately the removal of governors. This code of conduct complements the Trust's Constitution.

### **3. APPOINTMENT AND TENURE**

- 3.1 The Council of Governors is comprised of representatives elected from, and by, the public membership and the staff membership, as well as those appointed from local partner organisations such as local authorities, and universities. 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.

- 3.2 The council of governors is responsible for representing the interests of NHS foundation trust members, the public at large, and staff in the governance of the NHS foundation trust.

### **4. INDUCTION AND TRAINING**

- 4.1 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, the Trust will provide a comprehensive induction and ongoing development opportunities. Individual governors are invited to speak to the Chair and/or Director of Corporate Governance and Trust Secretary about any further information or training needs.

- 4.2 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.

### **5. ROLE AND FUNCTION OF GOVERNORS**

- 5.1 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 and standing orders, 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; and
  - (e) support and assist the Chief Executive, as the 'accountable officer' in their responsibility to answer to NHS England, commissioners and the public.

## **6. CONFLICTS OF INTEREST**

- 6.1 The Council of Governors has a legal obligation to act in the best interests of the Trust 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.
- 6.2 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.
- 6.3 Upon appointment, and at least annually, governors are invited to complete a declaration of interests form. This document must also be updated where a material change occurs. A register of interests will be maintained by the Director of Corporate Governance and Trust Secretary, and will be made available to the public, in line with the Trust's Standards of Business Conduct Policy.
- 6.4 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.

## **7. STANDARDS OF CONDUCT**

- 7.1 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  
*Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends;*
  - (b) Integrity  
*Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties;*
  - (c) Objectivity  
*In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;*
  - (d) Accountability  
*Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;*

(e) Openness

*Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;*

(f) Honesty

*Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;*

(g) Leadership

*Holders of public office should promote and support these principles by leadership and example.*

7.2 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; and
- (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.

7.3 All governors are expected to understand, agree and promote the Trust's Diversity and Inclusion 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.

7.4 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.

## **8. STAKEHOLDER ENGAGEMENT**

8.1 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.

- 8.2 Governors may receive approaches from or to the media. The Trust is keen to work proactively with governors to promote the work of the Trust, its staff and Council of Governors. The Media and Communications Policy appended to this document sets out the correct procedure for governors to follow.
- 8.3 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.

## **9. VISITING THE TRUST**

- 9.1 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 Director of Corporate Governance and Trust Secretary, in liaison with appropriate directors and managers; and
  - (b) for individual visits, the Governor should speak directly to the Director of Corporate Governance and Trust Secretary.
- 9.2 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.
- 9.3 Personal, non-Governor related visits to Trust property are not covered by this procedure.

## **10. EXPENSES**

- 10.1 The position of Governor is unremunerated, though reasonable out-of-pocket expenses are paid. Please refer to the Trust's policy on Governor expenses and how to claim for reimbursement for costs incurred on behalf of the Trust.
- 10.2 Further information about expenses can be gained by speaking directly to the Foundation Trust Office.

## **11. MEETINGS**

- 11.1 Governors have a responsibility to attend meetings of the Council of Governors. When this is not possible they should submit an apology to the Director of Corporate Governance and Trust Secretary in advance of the meeting. Governors are expected to attend for the duration of each meeting.

- 11.2 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.
- 11.3 Non-attendance at two 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 Chair.
- 11.4 If a Governor would like to submit an item for inclusion in the Council's agenda, they should forward their request to the Director of Corporate Governance and 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 Chair, in discussion with the Director of Corporate Governance and Trust Secretary.
- 11.5 Meetings of the Council of Governors 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.

## **12. BOARD AND COUNCIL INTERACTION**

- 12.1 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 Chair and facilitated by the Director of Corporate Governance and Trust Secretary.
- 12.2 Governors are reminded that the Council of Governors, 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.
- 12.3 Governors should treat the Trust's directors, other employees and fellow governors with respect and in accordance with the Trust's policies.

## **13. MEDIATION**

- 13.1 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 Chair or Director of Corporate Governance and Trust Secretary.



- 13.2 Before the mediation process is instigated, the Chair, Lead Governor and / or Senior Independent Director (as appropriate) should have met in an attempt to resolve the matter.

#### **14. NHS ENGLAND**

- 14.1 In general, formal contact with NHS England will be via the Chair, Chief Executive or Director of Corporate Governance and Trust Secretary, as appropriate.
- 14.2 This does not prevent the Council of Governors nominating the Lead Governor for communications with the regulator in such instances when the usual communication line is inappropriate.

#### **15. CONFIDENTIALITY**

- 15.1 All governors are required to respect the confidentiality of the information they are exposed to as a result of their membership of the Council of Governors. 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.
- 15.2 In situations concerning potential whistleblowing matters, governors are encouraged to adhere to the Trust's Raising Concerns at Work Policy to resolve the matter, in the first instance.
- 15.3 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 Concerns at Work Policy or by speaking to the Director of Corporate Governance and Trust Secretary.
- 15.4 Guidance is provided to governors about how to deal with approaches from or to the media and related matters in Appendix 1.

#### **16. CEASING TO BE A GOVERNOR**

- 16.1 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 Director of Corporate Governance and Trust Secretary.
- 16.2 As previously mentioned, failure to attend two 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 Chair.

- 16.3 A Governor may resign their office ahead of their tenure by writing to the Director of Corporate Governance and Trust Secretary. Depending on the reasons and circumstances of the resignation, the Chair may decide to formally record those particulars in the minutes of the next Council of Governors meeting.

## **17. CODE NON-COMPLIANCE**

- 17.1 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 of Conduct or specific conditions of service. Ideally any penalties for non-compliance would never need to be applied.
- 17.2 Non-compliance with the Code of Conduct may result in action being taken as follows:
- (a) where misconduct takes place, the Chair 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) invite the Governor to address the Council in person if the matter cannot be resolved satisfactorily through correspondence,
    - (iii) decide, 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/or the removal of the Governor from office;
  - (c) where the Council of Governors 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.
- 17.3 Further information regarding any aspects of this Code of Conduct can be requested from the Director of Corporate Governance and Trust Secretary.



**Appendix 1**

**Declaration:**

I, ..... (**Print Name**) agree to abide by the  
Code of Conduct for Governors of the Torbay and South Devon NHS Foundation Trust.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Note: This Code of Conduct does not limit or invalidate the right of a governor or the Trust to act under the constitution.

## Appendix 2

### Media and Communications Policy

1. This policy is intended to provide guidance for governors about how to deal with approaches from or to the media and related matters. The Trust is keen to work proactively with governors to promote the work of the Trust, its staff and the Council of Governors. The policy therefore sets out the correct procedure for governors to follow should they receive a call from the media or wish to publicise activities associated with, or arising from, their position as a member of the Council of Governors of the Trust.
2. The Foundation Trust recognises that the Council of Governors has a legitimate involvement in providing information to the Foundation Trust's membership and wider public. However, to ensure such messages reflect the opinion of the whole Council and are consistent with other statements made by the Foundation Trust, any statements by members of the Council of Governors must be issued through the Trust's Communications Team.
3. The Communications Team under the guidance of the Associate Director of Communications and Partnerships is proactive in protecting the reputation of the Trust and ensures that the activities of the Trust are promoted in a positive manner through radio, television and the press at both local and national levels.
4. The promotion of the work of the Council of Governors through the media will be a matter for decision by the Council of Governors.
5. With regard to communication from the press and media, governors must immediately direct all enquiries to the Communications Team who will take responsibility for providing and delivering a response.
6. All governors are expected to comply with the Trust's Social Media Policy if they identify themselves as a governor on their social media profile.
7. Under no circumstances should an individual member of the Council of Governors publish information on matters pertaining to the Trust or their role as a member of the Council without the knowledge and agreement of the Chair of Governors and the Director of Corporate Governance and Trust Secretary. This includes publishing information on social media.

8. Any documents given or shown to governors not already in the public domain, are to be treated as confidential and therefore governors must not copy, or otherwise distribute such information without the permission of the Chair of Governors and the Director of Corporate Governance and Trust Secretary.
9. Governors who receive invitations to attend functions or meetings related to their activities as a member of the Council of Governors should advise the Foundation Trust Office.
10. Should a governor be invited to speak then he or she is requested to clear any proposed speech with the Chair or Director of Corporate Governance and Trust Secretary.
11. For invitations to give a speech or appear publicly in their role as governors that come directly to the Trust, the Foundation Trust Office will draw up a list of those who are willing to represent the Foundation Trust in this way.
12. As a matter of general principle the workings of the Foundation Trust are open and transparent. However, there may be circumstances when, in order to comply with a variety of policies, statutes and commercial confidentiality, this is not possible.
13. Therefore, should any individual member of the Council of Governors become concerned about an aspect of the Trust's activities or that of the Council of Governors they should discuss this in the first instance with the Chair or the Director of Corporate Governance and Trust Secretary who will ensure that the query is properly dealt with.
14. Should governors not be satisfied with the outcome of this process they can appeal to the Senior Independent Director who can be reached through the Director of Corporate Governance and Trust Secretary.
15. The Trust has a clear policy and procedures for responding to Freedom of Information (FOI) requests and should a governor receive such an enquiry this should be forwarded to the Director of Corporate Governance and Trust Secretary who will ensure that the correct procedure under the Trust's FOI Policy is followed.
16. Finally, governors are of course free to make statements or give interviews in connection with any non-Trust related activities they may be involved in. However, any statements or interviews given by individual members of the Council of Governors in relation to these other aspects of their personal or professional activities must not make reference to any matters pertaining to their position as a member of the Council of Governors.