

TERMS OF REFERENCE

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Relevant documentation to read in conjunction:	Governance Manual and appendices Standards of Business Conduct Policy Conflicts of Interest Policy Fit & Proper Persons SOP Risk Policy, Risk Strategy and SOP

ETHICS COMMITTEE

TERMS OF REFERENCE

1. Constitution and Authority

- 1.1. The Committee is constituted as a Standing Committee of the Board of Directors (the “Board”) of Torbay and South Devon NHS Foundation Trust (the “Trust”). Its constitution and terms of reference are subject to amendment by the Board, to which it remains accountable.
- 1.2. These terms of reference may only be changed with the approval of the Board.
- 1.3. The Committee shall embody the principles of the NHS Constitution and the Trust’s values, at all times.
- 1.4. The Committee shall have the ability to delegate and establish Sub-Committees or other groups as and when required, with ultimate discretion to disband such groups, in accordance with this provision.
- 1.5. These Terms of Reference shall be published on the Trust’s website.

2. Purpose

- 2.1. The purpose of the Committee is to act as the forum to consider the Trust’s overarching moral and ethical principles, in order to provide the best quality health care to its patients.
- 2.2. The Committee will provide assurance to the Board of Directors that:
 - 2.2.1. appropriate ethical and moral reasoning is being applied to clinical decisions and novel treatments;
 - 2.2.2. a framework to enable ethical decisions, to be made in accordance with the law and the principles of moral and natural justice, have been agreed; and
 - 2.2.3. all patients are entitled to treatment with no arbitrary criteria being applied (such as those defined by the Equality Act as having protected characteristics) outside recognised clinical criteria and the realities of demands of the service.
- 2.3. The Committee will promote local level responsibility and accountability.
- 2.4. This is a Tier 1 Committee, in accordance with the Trust’s governance framework.

3. Duties

3.1. In pursuance of its purpose, the duties delegated to the Committee are:

- 3.1.1. The Committee is empowered to seek assurance, raise concerns and make recommendations to the Board of Directors pertaining to the committee's role and duties.
- 3.1.2. The Committee will strive to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not, as set out in the Public Sector Equality Duty and the Equality Act 2010.

3.2. The duties and responsibilities of the Committee shall be:

- 3.2.1. To make recommendations to the Board of Directors in respect of ethical and moral reasoning when thresholds for treatment, ceilings or treatment or withdrawal of treatment needs to be implemented.
- 3.2.2. To oversee the work of the Clinical Ethics Advisory Panel ("Panel") and approve their terms of reference (not currently functional)
- 3.2.3. To provide the Board of Directors with a summary of all cases/decisions made by the Panel.
- 3.2.4. To ratify guidelines for the escalation, ceiling of treatment and withdrawal of treatment for patients during the Covid-19 epidemic and to evidence that the guidelines are informed by the appropriate ethical and moral frameworks.
- 3.2.5. To consider the moral and ethical implications of any requests by clinicians for the use of novel therapies using an evidence-based approach and to make recommendations to the Chief Medical Officer or Deputy Medical Directors and Board of Directors, if appropriate.
- 3.2.6. To establish a clinically responsive committee to support clinicians when faced with an ethical or moral dilemma, or if making difficult clinical decisions where there are no existing clinical guidelines to refer to, or if there are specific reasons for going against existing or contradictory guidelines.
- 3.2.7. Where clinicians are used to making these decisions and they feel able to follow existing processes for escalating, imposing ceilings of treatment or withdrawing treatment there will be no expectation that the Panel will need to be consulted.
- 3.2.8. To work in partnership with the South West Regional Group and the Devon Ethical Reference Group in developing broader ethical policies for the region.

3.3. Any other relevant matter as may arise from time to time, requiring detailed Non-Executive oversight, under the direction of the Chairman.

4. Powers

- 4.1. In accordance with the delegated authority outlined above, the Committee is authorised to seek any information it requires from any member of staff, who shall be under a positive obligation to co-operate with any request made by the Committee.
- 4.2. The Committee may request the attendance of individuals and authorities from outside the Trust with relevant experience and expertise if it considers this necessary in the best interests of the Trust.
- 4.3. The Committee derives its power from the Board and has no powers, other than those specifically delegated in these terms of reference.

5. Membership and Attendance

- 5.1. The Membership shall be defined by the Board under direction of the Chair; for avoidance of doubt membership shall always include:
 - Chief Medical Officer (Chair)
 - Deputy Medical Director
 - Chief Nurse
 - System Director of Nursing and Professional Practice
 - Chaplaincy representative
- 5.2. The following shall attend in an advisory capacity:
 - Medical Ethics Advisor
 - Trust Chair, Lay-Advisor
 - Trust Secretary, Governance Advisor
- 5.3. Members of the Committee shall be permitted to nominate a deputy to attend a meeting in their absence.
- 5.4. One of the Non-Executive Directors shall act as Committee Chair. In their absence, one of the other Non-Executive Directors present shall be nominated and appointed as acting Chair for the meeting. (to date this committee has been chaired by the CMO)
- 5.5. Other members/attendees may be co-opted or requested to attend as considered appropriate.
- 5.6. All other members of the Board of Directors shall be entitled to attend and receive Committee agenda and papers.
- 5.7. Unless otherwise determined by the Chairman, the duration of appointments to this Committee shall be for a continuous term, with annual review; for the avoidance of doubt, no member may continue to attend following the completion of their Non-Executive or Executive role at the Trust.
- 5.8. Governor and Devon ICS representatives may be invited to attend as observers.

6. Meeting Administration, Record Keeping and Decision-Making

- 6.1. The Committee shall be supported by a Committee Secretary, or their nominee, who shall be appointed by the Chair.
- 6.2. The duties of the Committee Secretary shall include, the:
 - 6.2.1. creation and maintenance of a work plan and reporting schedule;
 - 6.2.2. collation of papers and drafting of the agendas;
 - 6.2.3. record of proceedings and decisions taken by the Committee; including decisions taken in writing outside of the meeting; with such record presented at the following meeting for approval; and
 - 6.2.4. where the Committee have met, virtually or otherwise a record of those present and in attendance should be maintained.
- 6.3. Items for the agenda must be sent to the Committee Secretary a minimum of seven (7) working days prior to the meeting. Urgent items may be raised under any other business.
- 6.4. A decision is taken in accordance with these Terms of Reference when a quorate majority of the members indicate to each other, by any means, that they share a common view on a matter; with each Member holding one vote.
- 6.5. In the event of equality of votes (however communicated) in relation to a specific matter the Chair may exercise a casting vote.

7. Quorum

- 7.1. The quorum necessary for the transaction of business shall be three (3) members including the Chair, or their nominated deputy and the Chief Medical Officer and the Chief Nurse.
- 7.2. A duly convened meeting at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the committee.
- 7.3. Deputies shall count towards the quorum.

8. Frequency of Meetings and Notice

- 8.1. The Committee shall meet as required, but at least two (2) times a year, at the discretion of the Chair. Meetings of the Committee shall be called by the Secretary of the Committee at the request of the Chair or any of its members.
- 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 Committee and any other person required to attend no later than seven (7) working days before the date of the meeting. Supporting papers

shall be sent to Committee members and to other attendees, as appropriate, at the same time.

9. Conduct of Meetings and Conflicts of Interest

9.1. Except as outlined above, meetings shall be conducted in accordance with the provisions of the Trust's Standing Orders.

9.2. As per the Trust's Standards of Business Conduct Policy and Conflicts of Interest Policy, any potential, actual or perceived conflict of interest shall be declared and managed through the Trust's declaration procedure; noting the enhanced obligations of Executive Officers in accordance with the Trust's Fit and Proper Persons Regulations SOP.

9.3. At the commencement of any meeting, or should any potential, actual or perceived conflict arise during a meeting, the relevant Committee member must declare this and recuse themselves from any relevant decision; this shall be formally noted in the minutes of the meeting.

10. Review and Monitoring Effectiveness

10.1. As part of the Trust's committee effectiveness review process, the Committee shall review its collective performance annually. The purpose of this review is to be assured that the Committee is operating at maximum effectiveness in discharging its responsibilities as set out in these terms of reference and, if necessary, to recommend any changes to the Board.

10.2. The Committee shall review its Terms of Reference and membership annually.