

**GOVERNORS' NOMINATIONS, REMUNERATION AND TERMS OF
SERVICE COMMITTEE**

TERMS OF REFERENCE

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**TORBAY AND SOUTH DEVON NHS FOUNDATION TRUST
GOVERNORS' NOMINATION AND REMUNERATION COMMITTEE**

TERMS OF REFERENCE

1. CONSTITUTION

- 1.1 The Governors' Nomination and Remuneration Committee ('the Committee') is a sub-committee of the Council of Governors.
- 1.2 The Committee is responsible for advising and / or making recommendations to the Council of Governors relating to:
- i) the evaluation of the performance of the Chairperson and Non-Executives. In fulfilling this role the Committee will make reference to the Foundation Trust Code of Governance; Monitor Governor Statutory Duties Guide; and NHSE Chair and NED Appraisal Framework
 - ii) the remuneration, allowances and other terms and conditions of the Chairperson and Non Executives; and to
 - iii) determining and directing the process for recruitment, re-appointment or removal of the office of Chairperson and other Non-Executive Directors.

Guidelines extracted from Monitor's Code of Governance is attached in Appendix A.

2. MEMBERSHIP

- 2.1 The Committee will be chaired by the Chairperson of the Trust. If the Chairperson is absent the Senior Independent Director will act as Chair.
- 2.2 The Committee will comprise the Chairperson of the Trust, four Public Council Governors, two Staff Council Governors, the Lead Governor and the Trust's Senior Independent Director. Membership shall preferably include one Governor from each constituency however, this shall not be mandatory.
- 2.3 The term of office for Governor members (except Lead Governor) of the Committee shall be (3) three years. At the expiry of the Governor term of office, the Committee shall invite expressions of interest from the governor category they represent. If more than one expression of interest is received, an election will be held in which all Governors will be entitled to vote. In such circumstances, those Governors will circulate a short supporting statement. In the event of a tie the Chair will decide the Governor member. A Governor may be re-appointed to the Committee.
- 2.4 In discharging its responsibilities the Chief Executive of the Trust may be invited to attend the meeting of the Committee.
- 2.5 For the appointment of the Chairperson to the Trust, the Committee may seek the services of an Independent Assessor(s). The Independent Assessor will not be a member or have a vote on the Committee.

- 2.6 For all appointments and matters relating to remuneration, the Committee will seek advice from the professional human resources services of the Trust and/or external professional support.

3. FREQUENCY

- 3.1 The Committee will meet a minimum of twice a year; and more frequently as required for the Committee to fulfil its work programme.

4. QUORUM

- 4.1 The quorum for each meeting will be four members, the majority of whom must be Governors and at least one must be a Non-Executive Director.

5. AUTHORITY

- 5.1 The Committee is authorised by the Council of Governors to carry out any activity within its Terms of Reference.

6. REPORTING MECHANISM

- 6.1 Minutes of each Committee will be formally recorded and submitted to the Council of Governors. The Committee reserves the right not to publish minutes recording discussions held in private. This might include information of a sensitive or personal nature, for example discussions relating to appraisals.
- 6.2 The Chairperson should draw to the attention of the Council of Governors any matters relevant to the Committees' duties.
- 6.3 The Committee will prepare an annual report on the work of the Committee for publication in the Trust's Annual Report and Accounts.

7. PROCESS

- 7.1 The Committee will:
- i) on a regular and systematic basis monitor the performance of the Chairperson and other Non-Executive Directors and make reports thereon to the Council of Governors when requested to do so, or when in the opinion of the Committee the results of such monitoring ought properly to be brought to the attention of the Council of Governors;
 - ii) taking in to account section 7.1i), consider and make recommendations to the Council of Governors as to the remuneration and allowances and terms and conditions of the office of the Chairperson and Non-Executive Directors;
 - iii) consider Non Executive Director's succession planning having regard to the Non-Executive re-appointment process every three years;
 - iv) determine the processes for the selection of candidates for office of the Chairperson or other Non-Executive Directors of the Trust having first consulted with the Board of Directors as to these matters and having regard to such views as may be expressed by the Board of Directors.

This process will include;

- preparing a description of the role and responsibilities
 - determining the arrangement for attracting applicants
 - conducting a selection process and other assessment arrangements
 - making a recommendation to the Council of Governors
- v) engage with the Trust's HR services to seek candidates for office and to advise on the recruitment selection process up to making a recommendation to the Council of Governors. In doing so the Committee shall be at liberty to seek open and fair advice and assistance from persons other than members of the Committee or of the Council of Governors such as external organisations recognised as experts in recruitment;
- vi) to make recommendations to the Council of Governors of the candidate for appointment as Chairperson or other Non-Executive Director, as the case may be.

A schematic of the Committee working showing core functions is attached as Appendix B.

8. REVIEW

- 8.1 The Terms of Reference will be reviewed on an annual basis or at the request of the Council of Governors or by the Committee making recommendations to the Council of Governors as appropriate.

9. NHS CONSTITUTION

The Committee will embody the principles of the NHS Constitution in all it does.

Appendix A

GOVERNORS' NOMINATIONS AND REMUNERATION COMMITTEE (GNRC)

GUIDELINES RE: MONITOR CODE OF GOVERNANCE (WORKING DOCUMENT)

These guidelines support the Governors' Nominations and Remuneration Committee (the Committee) Terms of Reference. Note that references to a nominations committee relate to the Committee. They reference the Monitor NHS Foundation Trust Code of Governance, specifically the following Code Provisions:

A.4.2 The Chairperson (of the Trust) should hold meetings with the Non-Executive Directors without the Executives present. Led by the Senior Independent Director, the Non-Executive Directors should meet without the Chairperson (of the Trust) at least annually to evaluate the (Trust) Chairperson's performance, and on such other occasions as are deemed appropriate.

Process

The process for appraising the Chair has been agreed by the Committee.

A.5.8 The Council of Governors should only exercise its power to remove the Chairperson or any Non-Executive Directors after exhausting all means of engagement with the Board of Directors. The Council should raise any issues regarding the Chairperson with the Senior Independent Director in the first instance.

Process

The process for removal of any Non-Executive Director or Chairperson will be agreed by the Committee for recommendation to the Council of Governors.

B.2.1 The nominations committee or committees, with external advice as appropriate, are responsible for the identification and nomination of Executive and Non-Executive Directors. The nominations committee should give full consideration to succession planning, taking into account the future risks and opportunities facing the NHS Foundation Trust and the skills and expertise required within the Board of Directors to meet them.

Process

The review process will be determined and undertaken by the Committee as identified in its Terms of Reference.

B.2.3 There may be one or two nominations committees. If there are two committees, one will be responsible for nominations for Executive and the other for Non-Executive Directors (including the Chairperson). The Nominations Committee(s) should regularly review the structure, size and composition of the Board of Directors and make recommendations for changes where appropriate. In particular the Nomination Committee(s) should evaluate the skills, knowledge and experience on the Board of Directors and, in light of this evaluation, prepare a description of the role and capabilities

required for a particular appointment of both Executive and Non-Executive Directors, including the Chairperson.

Process

The Committee is responsible for the nominations process of the Chairperson and Non-Executive Directors to the Council of Governors. (see B.2.5)

The Executive Nominations and Appointments Committee will be responsible for the process of appointing Executive Directors, including the Chief Executive (see Appendix B)

B.2.4 The chairperson or an independent Non-Executive Director should chair the nomination committee(s).

Process

The Committee will be chaired by the Chairperson, or in their absence the Senior Independent Director. This is stated in the Terms of Reference.

The nominations and appointments committee pertaining to Executive Directors will be chaired by an Independent Non-Executive Director of the Trust. This is stated in the Terms of Reference.

B.2.5 The Governors should agree with the nominations committee a clear process for the nomination of a new Chairperson and Non-Executive Directors. Once suitable candidates have been identified the nominations committee should make recommendations to the Council of Governors.

Process

The process for the nomination of a new Chairperson and Non-Executive Directors is:

- **The Committee shall produce a person specification covering the qualifications, skills and experience required. This specification will take into account the views of the Board of Directors. (See B.2.7)**
- **For the appointment of the Chairperson, the Committee will produce a job specification defining the role, the capabilities required and the time commitment (See B.3.1)**
- **The Committee will use the professional Human Resource services of the Trust to advise on the recruitment selection process**
- **The Committee will shortlist and interview such candidates it feels appropriate**
- **The Committee will make a recommendation to the Council of Governors to appoint**

B.2.6 Where an NHS foundation trust has two nominations committees, the nominations committee responsible for the appointment of Non-Executive Directors should consist of a majority of Governors. If only one nominations committee exists, when nominations of Non-Executive, including the

appointment of a chairperson or deputy chairperson, are being discussed, there should be a majority of Governors on the committee and also a majority Governor representation on the interview panel.

Process

The membership of the Committee is made up of a majority of Governors. This is stated in the Terms of Reference.

B.2.7 When considering the appointment of Non-Executive Directors, the Council of Governors should take into account the views of the Board of Directors on the qualifications, skills and experience required for each position.

Process

In preparing the person and job specification, the Committee will consult with the Board of Directors on the qualification, skills and experience required for each post.

B.2.8 The annual report should describe the process followed by the Council of Governors in relation to appointments of the chairperson and Non-Executive Directors.

Process

A report will be produced to reflect the work of both the Committee and any established Executive appointment committees. This requirement is included in the Committee workplan.

B.2.9 An independent external adviser should not be a member of or have a vote on the nominations committee(s)

Process

The membership of the Committee does not include an independent external adviser. This is stated in the Constitution and Terms of Reference.

B.2.10 A separate section of the annual report should describe the work of the nominations committee(s), including the process it has used in relation to board appointments. The main role and responsibilities of the nomination committees should be set out in publicly available, written terms of reference.

Process

The Company Secretary will prepare the report for review by the Committee (and the Nominations and Appointment Committee for Executive appointments). This requirement is included in the Committee(s) workplan.

The nomination committee(s) Terms of Reference are published on the Trust's website.

B.3.1 For the appointment of a Chairperson, the nominations committee should prepare a job specification defining the role and capabilities required including an assessment of the time commitment expected, recognising the need for availability in the event of emergencies. A Chairperson's other significant commitments should be disclosed to the Council of Governors before appointment and included in the annual report. Changes to such commitments should be reported to the Council of Governors as they arise, and included in the next annual report. No individual, simultaneously whilst being a Chairperson of an NHS Foundation Trust, should be the substantive Chairperson of another NHS Foundation Trust.

Process

For the appointment of Chairperson, the Committee will produce a job specification defining the capabilities required including an assessment of the time commitment expected. For future Chairperson appointments other significant commitments will be disclosed and appear in the Annual Report.

B.3.2 The terms and conditions of appointment of Non-Executive Directors should be made available to the Council of Governors. The letter of appointment should set out the expected time commitment. Non-Executive Directors should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the Council of Governors before appointment, with a broad indication of the time involved and the Council of Governors should be informed of subsequent changes.

Process

The terms and conditions of appointment of Non-Executive Directors are available from the Director of Corporate Governance.

The Committee will consider the time commitment for each appointment and seek assurance that the Non-Executive Director has sufficient time to meet what is expected of them as part of the selection process.

B.6.3 The Senior Independent Director should lead the performance evaluation of the Chairperson, within a framework agreed by the Council of Governors and taking in to account the views of Directors and Governors.

Process

The Committee will establish the performance appraisal process for agreement by the Council of Governors.

B.6.5 Led by the Chairperson, the Council of Governors should periodically assess their collective performance and they should regularly communicate to Members and the public details on how they have discharged their responsibilities, including their impact and effectiveness on:

- Holding the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors;

- Communicating with their member constituencies and the public and transmitting their views to the Board of Directors; and
- Contributing to the development of forward plans of the NHS Foundation Trust.

The Council of Governors should use this process to review its roles, structure, composition and procedures, taking into account emerging best practice. Further information can be found in Monitor's publication: *Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors*.

Process

The Committee may be requested by the Council of Governors to undertake this role. This is a matter for the Council of Governors.

B.7.1 In the case of re-appointment of Non-Executive Directors, the Chairperson should confirm to Governors that, following formal performance evaluation, the performance of the individual proposed for re-appointment continues to be effective and to demonstrate commitment to the role. Any term beyond six years (eg two three-year terms) for a Non-Executive Director should be subject to particularly rigorous review and should take into account the need for progressive refreshing of the Board. Non-Executive Directors may in exceptional circumstances serve longer than six years (eg two three-year terms following authorisation of the NHS Foundation Trust), but this should be subject to annual re-appointment. Serving more than six years could be relevant to the determination of a Non-Executive Director's independence.

Process

The Committee will consider the above specified terms when nominating a Chairperson or Non-Executive Directors for appointment / re-appointment to the Council of Governors.

B.7.3 Approval by the Council of Governors of the appointment of a Chief Executive should be a subject of the first general meeting after the appointment by a committee of the Chairperson and Non Executive Directors. All other Executive Directors should be appointed by a committee of the Chief Executive, the Chairperson and Non-Executive Directors.

Process

The Board of Directors has established a nominations and appointments committee for the appointment of the Chief Executive and other Executive Directors.

B.7.4 Non-Executive Directors, including the Chairperson, should be appointed by the Council of Governors for specified terms subject to re-appointment thereafter at intervals of no more than three years and subject to the 2006 Act provisions relating to the removal of a Director.

Process

This provision is set out in the Constitution.

D.1.2 Levels of remuneration for the Chairperson and other Non-Executive Directors should reflect the time commitment and responsibilities of their roles.

Process

When determining, for recommendation to the Council of Governors, the levels of remuneration for the Chairperson and other Non-Executive Directors, the Committee will consider the time commitment and responsibilities of the roles and take in to account NHSEI National Guidance.

E.2.3 The Council of Governors should consult external professional advisers to market test the remuneration levels of the Chairperson and other Non Executives at least once every three years and when they intend to make a material change to the remuneration of a Non-Executive.

Process

The review process will be determined and undertaken by the Committee as identified in the terms of reference and taking in to account NHSEI National Guidance.

GOVERNORS' NOMINATIONS AND REMUNERATION COMMITTEE (GNRC)

May 2022
Appendix B

