

Council of Governors– 3rd May 2018

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Report from the Nominations and Remuneration Committee: Non-Executive Director (NED) recruitment, membership of the Committee and Chair and NED appraisals

Purpose of the report

The Purpose of the report is to set out a proposals on:

- The tender process for the appointment of an Executive search company for the Non-Executive Director recruitment process including the questions and criteria
- The remuneration of the Non-Executive Directors
- To seek delegated authority to lead the Non-Executive Director recruitment process, with final recommendations on preferred being presented candidate to full Council for consideration and endorsement
- Endorsing the existing job description and person specification
- The membership of the Nominations and Remuneration Committee

The report also provides an update on the annual Chair and NED appraisal process.

Analysis of the issue

The Nominations and Remuneration Committee met on 27th March 2018 and on 17th April 2018.

At the 27th March 2018 meeting the Committee:

- Agreed they should recommend to full Council a search company is used to support the non-executive director recruitment process. This would require a tender process. The Committee agreed to undertake some preliminary work on the tender process prior to their next meeting.
- Agreed to recommend that delegated authority from Council is sought for leading the recruitment of two Non-Executive Directors. One post will be to replace Paul Clark who left 31st March 2018 and the other will be to replace Bev Messinger who is currently in post to 31st January 2019. Final recommendations on preferred being presented candidate to full Council for consideration and endorsement.
- Discussed the remuneration of the Non-Executive Directors: The Committee reviewed benchmarking data from NHS Providers and it was agreed the current remuneration of for non-executive directors was correct and should remain unchanged.

- Agreed the Board skills matrix should be updated with David Williams and Melanie Hall included and this would be reviewed at the Committee's next meeting.
- Agreed the Committee would review the NED job description at its next meeting
- Discussed its membership, as following governor elections, membership of the Committee would need refreshing/reviewing. It was agreed to discuss proposals at its next Committee meeting.
- Discussed and noted the annual process for the Chair and NED appraisal was due, and, the outcomes of which would be taken to the July Council of Governors meeting. In order to capture feedback from governors whose term of office was due to end shortly, it was agreed to start requesting feedback from governors and Board members as soon as possible. Moira Ingham, as SID was present for this item.

At the 17th April 2018 meeting the Committee:

- Discussed the NED job description and person specification: It was discussed and agreed no change needed to be made to these. They had previously been agreed by the Council of Governors in 2015 and had been reviewed by the Committee during NED recruitment processes in 2017.
- Discussed skills/expertise/experience needed for NED recruitment: The Committee reviewed the updated skills matrix and identified areas where there appeared to be gaps or lighter coverage on, particularly taking into account NEDs who had recently left or terms due to end. These included HR, Legal, mergers and acquisitions and social care background/experience. It was agreed these would be the proposed areas to take to the full Council.
- Discussed search company tender questions and criteria- The group reviewed the questions and criteria previously used and made some amendments which emphasises the objectives of achieving diversity in the pool of candidates.
- Discussed membership of the Committee: The Committee received feedback from the Membership & Governance sub group and they agreed with their comments/proposals. It was agreed to propose to remain at six governors, but to remove the elected/appointed governor spilt. The Committee also agreed if the Committee was oversubscribed (i.e. more than six governors wish to join the Committee), an election process would take place and the Council of Governors would therefore agree the final membership. The Committee agreed that those expressing an interest in joining its membership should be invited to outline contributions that they would bring to the Committee's work, for example, skills/experience in recruitment and selection, training and development, performance management.

Proposal

Following the two meetings described above held in March and April 2018 the following proposals are presented to the Council of Governors:

1. For the Non-Executive Director remuneration to remain at unchanged.

2. For the Nominations and Remuneration Committee to be given delegated authority to commence the tender process to appoint an executive search company for Non-Executive Director recruitment.
3. For the Nominations and Remuneration Committee to be given delegated authority to lead the recruitment process of two for Non-Executive Directors. The final recommendations would be brought to a Council of Governors meeting for approval.
4. For the following skills and experience/expertise to be sought as part of this NED recruitment process :
 - HR
 - Legal
 - Partnerships/mergers/acquisitions
 - Social care
5. For the existing job description and person specification (Appendix 1) for the non-executive directors to be endorsed by the Council of Governors
6. The membership of the Committee to be amended such that there no appointed/elected governor spilt (whilst retaining current number of governors at six). The updated terms of reference are attached as Appendix 2.

Decision required

The Council of Governors are asked to:

- Consider and approve the proposals 1 to 6 as above

Appendix 1

Non-Executive Director Role Description

As members of a unitary board of directors, non executive directors share responsibility with and have the same liability as the executive directors for the performance of the Trust in using the available resources to deliver health and social care and improve wellbeing.

All directors, executive and non executive have responsibility to constructively challenge the decisions of the board of directors and help develop proposals on priorities, risk, mitigation, values, standards and strategy. As part of their role as members of a unitary board, non executive directors have a particular duty to ensure appropriate challenge is made. Non executive directors should scrutinise the performance of the executive management in meeting agreed goals and objectives, receive adequate information and monitor the reporting of performance.

In performing their role non executive directors should:-

- commit to working to, and encouraging within the trust, the highest standards of probity, integrity and governance and contribute to ensuring that the trust's internal governance arrangements conform with best practice and statutory requirements;
- provide independent judgement and advice on issues of strategy, vision, performance, resources and standards of conduct and constructively challenge, influence and help executive directors develop proposals on such issues;
- monitor and scrutinise the performance and conduct of management in meeting agreed goals and objectives and statutory responsibilities, including the preparation of annual reports and annual accounts and other statutory duties;
- obtain assurance that financial and clinical quality information is accurate and that financial and clinical quality controls and risk management systems are robust and implemented;
- contribute to the determination of appropriate levels of remuneration and the appointment or removal of executive directors;
- where so appointed chair or as a member take an active part in committees (including the remuneration committee) established by the board of directors to exercise delegated responsibility;
- support, encourage and where appropriate 'mentor' executive directors;
- bring independent judgement and experience or expertise from outside the trust and apply this to the benefit of the trust, its stakeholders and its wider community;
- contribute to the maintenance and ongoing development of a positive working relationship with the Council of Governors;

- assist fellow directors in ensuring that the necessary financial, human and other resources are in place for the trust to meet its objectives, and that performance is effectively monitored and reviewed;
- assist fellow directors in providing entrepreneurial leadership to the trust within a framework of prudent and effective controls, which enable risk to be assessed and managed;
- actively support and promote a positive culture for the trust and reflect this in his/her own behaviour;
- assist fellow directors in setting the trust's values and standards and ensure that its obligations to its stakeholders and the wider community are understood and fairly balanced at all times;
- engage positively and collaboratively in board discussion of agenda items;
- represent the local communities served by the trust including service users and carers, dealing with the media when appropriate; and
- adhere to the Trust Directors Code of Conduct and uphold monitor and scrutinise the trust's performance in adhering to the NHS Constitution

NED PERSON SPECIFICATION

All NEDs are required to commit a minimum of 3 days per month to undertake Trust business.

All NEDs need to show that they have the competencies required to be effective in this board level role, including the ability to exercise independence of judgement.

They are:

Patient and community focus:

A high level of commitment to patients, carers and the community, especially to disadvantaged groups.

Strategic direction:

The ability to think and plan ahead, balancing needs and constraints.

Holding to account:

The ability to accept accountability and probe and challenge constructively.

Effective influencing and communication:

Be able to influence and persuade others.

Team working:

Be committed to working as a team member.

Self belief and drive:

The motivation to improve NHS performance and confidence to take on challenges.

Intellectual flexibility:

The ability to think clearly and creatively.

Nominations and Remuneration Committee Terms of Reference

Introduction and purpose

This committee appoints, removes and re-appoints the chair and Non-Executive directors (NED), and determines their terms and conditions. It also undertakes responsibility for the annual Chair and Non-Executive Director appraisals process.

Aims/responsibilities

The Nominations and Remuneration Committee (NomRem) is a Committee of the Council of Governors and will act within these Terms of Reference on behalf of the Council of Governors.

The Committee will also act in accordance with the relevant provisions of Monitor's Code of Governance and Fit and Proper Person Requirements.

Nominations Functions

- To ensure there is a formal, rigorous and transparent procedure for the appointment of Non Executive Directors¹
- To agree and lead the process for the identification and nomination of Non Executive Directors for approval by the Council of Governors including the consideration of reappointment of Non Executive Directors
- To ensure there is a formal and transparent procedure for setting the annual objectives for the Non Executive Directors
- To develop, in conjunction with the Trust Chairman, and agree the annual objectives of the Trust Chairman, for approval by the Council of Governors
- To contribute, through the Trust Chairman, to the setting of the annual objectives of the Non Executive Directors
- To ensure there is a formal and transparent procedure for the appraisal of Non Executive Directors' performance

¹ Although not expressly stated Non-Executive Directors include the Chair of the Trust.

- To regularly review, in conjunction with the Board of Directors Nominations and Remuneration Committee, the structure, size and composition of the Board of Directors
- To evaluate the balance of skills, knowledge, and experience of the Board of Directors and, in the light of this evaluation, prepare a description of the role and capabilities required for Non Executive Director appointments
- To give full consideration to succession planning, taking into account the future challenges, risks and opportunities facing the Foundation Trust and the skills and expertise required within the Board to meet them
- To appoint executive search consultants in respect of Non Executive Director recruitment as required

Remuneration Functions

- To ensure there is a formal and transparent policy on Non Executive Director remuneration
- To set the structure and levels of remuneration of Non Executive Directors
- To determine and review the terms and conditions of Non Executive Directors
- To market test/ benchmark the remuneration of the Non Executive Directors at a frequency agreed by the Committee and taking account of any external guidance on recommended frequency and/ or where the Committee is considering recommending large change to that remuneration, drawing on external professional advice
- To appoint, if deemed appropriate, independent consultants to advise on Non Executive Director remuneration.

Membership

- The Committee will consist of six governors and the Trust Chair.
- The Director of Corporate Governance will also be in attendance and the Corporate Affairs Manager.
- In the case of the appointment process for the Trust Chair the Senior Independent Director (SID) will be co-opted to join the Committee. The SID will attend in an advisory capacity and will not participate in the formal decision making process.
- In the case of the appointment (but not reappointment) process of the Trust Chair or Non Executive Director, a Chair of another NHS Trust will also be co-opted to join the Committee.

- The Trust Chair shall be the Chair of the Committee except where:
 - the re-appointment of the Trust Chair or the appointment of a new Trust Chairman is being considered
 - the Chair's appraisal or objectives are being considered
 - any of the remuneration functions above are being considered
- In the above instances the Committee's Vice Chair will become Chair for these items. The Trust Chair will not participate in the Committee's discussions on these matters unless invited to do so by the Vice Chair of the Committee. It will be at the discretion of the Committee as to whether the Trust Chairman is invited to be present when these matters are discussed. The Trust Chair will have no voting rights on these matters.
- The quorum for the Council of Governors Nom/Rem Committee will be a minimum of 4 members
- The Committee will circulate an agenda to all members at least three working days prior to the next meeting

Meeting frequency

The Committee will meet as and when required to allow it to discharge its functions but this will be no less than annually.

Performance evaluation

These Terms of Reference will be reviewed every two years, or earlier at the request of the Committee.

Reporting arrangements

The Committee will report to the Council of Governors as required.

Date of approval:	May 2018
Date of approval by sponsoring group:	May 2018 Council of Governors
Date of next review:	May 2020
Executive Lead:	Paul Martin, Director of Corporate Governance