

## Council of Governors' meeting – 3<sup>rd</sup> May 2018

### Proposed Constitution changes – Lead Governor and addition of Deputy Lead Governor

#### Purpose of the report

The purpose of the report is to set out a proposal for changes to Paragraph 6 of Annex 6 of the Trust's Constitution (Lead Governor).

#### Analysis of the issue

The Lead Governor was last appointed in November 2015. The Council of Governors has recently been through an election process of which a significant number of seats were up for election. The Membership & Governance sub group noted this provided a timely opportunity to review the process in respect of appointing a Lead Governor. Currently, the Constitution does not state when an election process for the Lead Governor should occur or the length of the term of office.

At its 12<sup>th</sup> April 2018 meeting, the Membership and Governance sub group considered the following:

- Introducing a Deputy Lead Governor: *The Constitution does not currently allow for a Deputy Lead Governor and it was felt this would be sensible to allow for cover when it may be needed.*
- The term of the Lead Governor role: *The Constitution does not currently state how long the term of office should be and the sub group felt this needed to be added. To align with the term of office of the governor role, three years was considered the appropriate length of the term.*
- At what point an election process should be undertaken: *The Constitution does not currently state when an election process should be undertaken. The sub group considered this issue and felt it would be sensible to hold an election as soon possible after the serving Lead Governor's term of office expires. The sub group therefore proposed a Lead Governor/Deputy Lead Governor election should be held as soon as possible following recent governor elections.*
- The nomination process: *The Constitution does not currently state how the election process will be undertaken. The sub group considered that up until this point, a 'self nomination' process had been used. It was felt that a proposer and seconder model might be a model which should be followed instead. Following the 12<sup>th</sup> of April meeting, research from other Foundation Trusts showed that the other trusts follow the self-nomination process.*
- Elected governors/appointed governors: *The Constitution does not currently state which governors are eligible to stand as Lead Governor. The sub group agreed it should be*

*proposed only elected governors can stand, partly due to the time commitment but also it would reduce the likelihood of any potential conflict of interests which may occur if an Appointed Governor stood, this view was supported by an Appointed Governor who was present at the meeting.*

- *Introducing the role of Deputy Lead Governor: The Constitution does not current allow for a Deputy Lead Governor. It was felt this role should be introduced to support the Lead Governor, allow for potential succession planning and would limit the risk of their being any gaps in Lead Governor coverage. This would therefore replace the current arrangement whereby the Chair of the Membership & Governance sub group would take over the role of Lead Governor in the event of any gaps in coverage unless due to circumstances there were vacancies for both Lead Governor and Deputy Lead Governor.*
- *The role of the lead governor: Although this will not be added to the Constitution itself the sub group agreed an updated role description was needed for the Lead Governor. This is attached as Appendix 2.*

## Proposal

The following proposals were agreed by the sub group to be put forward to the Council of Governors:

### Constitution changes:

- To introduce the role of Deputy Lead Governor
- To recommend that the Lead Governor/ Deputy Lead Governor (once elected) is in post for the remainder of their governor term of office, or up to three years (whichever comes first)
- To recommend the election for Lead Governor/ Deputy Lead Governor is held as soon as soon possible after the serving Lead Governor's term of office expires.
- To recommend only elected governors can stand to become Lead Governor/ Deputy Lead Governor (not Appointed/Partner Governors).
- To recommend the nomination process moves to a 'proposer' and 'seconder' model instead of self-nomination

The proposed wording to the Constitution is as at Appendix 1.

### Other

- It is proposed that a Lead Governor appointment process is held as soon as possible following the recent governor elections.
- The role of the Lead Governor to be endorsed by full Council (Appendix 2), delegating authority to the Membership & Governance sub group to agree a final version if any further amendments are required (Appendix 2).

## Decision required

The Council of Governors are asked to:

- Consider and endorse to the proposed constitution changes as at Appendix 1.
- Agree the proposed Constitution changes should be taken to the 31<sup>st</sup> May Board of Directors meeting
- Consider and endorse the role of the Lead Governor (Appendix 2), delegating authority to the Membership & Governance sub group to agree a final version if any further amendments are required

## **Appendix 1: Proposed Constitution amendments to Annex 6 of the Trust's Constitution (Paragraph 6)**

### 6. Lead Governor and Deputy Lead Governor

- 6.1. The Council of Governors will appoint a Lead Governor from its membership. All elected governors will be asked to nominate via a proposer and seconder model for the position of Lead Governor.
- 6.2. The lead governor role shall be reviewed by the CoG on the expiry of the current term of office of the elected governor appointed to the post. An election process will take place as soon possible after the serving Lead Governor's term of office expires or if the post becomes vacant for any other reason.
- 6.3. Agreed procedures for appointment are:
  - Candidates for Lead Governor must fill out and sign a nomination form, which is also signed by a proposer and seconder from the Council of Governors. The nomination form will include their name, and include a statement of why they wish to stand. The proposer and seconder must also print their name on the nomination form.
  - If more than one valid nomination is received, all governors are issued with a ballot paper and the person who receives the most votes will be appointed as the lead governor.
  - In the event of a tie for Lead Governor position following voting, the following process will apply:
    - i. The tied candidates will be invited to seek agreement between themselves as to which of them will assume the position
    - ii. If this is not possible, and where there is a candidate who is not in a tied position, those members who voted for the that candidate will be asked to vote again on the tied candidates only
    - iii. If there are only two tied candidates (i.e. and no other candidates), or that the outcome of ii. above results in another tie, a tossing of a coin will determine the outcome
  - If there is only one valid nomination, all governors will be asked to vote in favour or against this nomination via a ballot and if this person receives the support of the majority of governors who participate in this vote they will be appointed as the lead governor. In the event of the nomination not being supported, the appointment process would be re-run.
- 6.4. The lead governor will be an elected governor and will hold office for the period they are an elected governor and/or for a maximum period of three years.

6.5. The Council of Governors will also appoint a Deputy Lead Governor from its membership. The Deputy Lead Governor election will follow the same process as in paragraphs 6.1 to 6.4.

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**Appendix 2: Lead Governor and Deputy Lead Governor - Proposed Role summary**

Primarily the role of Lead Governor as described by Monitor (now NHS Improvement), the independent regulator of NHS Foundation Trusts is to:

- Act as a point of contact for NHS Improvement should the regulator wish to contact the Council of Governors on an issue for which the normal channels of communication are not appropriate.
- Be the conduit for raising with NHS Improvement any Governor concerns that the Foundation Trust is at risk of significantly breaching the terms of its authorisation, having made every attempt to resolve any such concerns locally.
- Chair such parts of meetings of the Council of Governors which cannot be chaired by the Trust Chair / Vice Chair due to a conflict of interest in relation to the business being discussed.

The Deputy Lead Governor will fulfil the above roles in the absence of the Lead Governor.

In addition the key focus of the role will also be to:

- Be a conduit for communication between the Council and the Board of Directors.
- Maintain a close working relationship with the Chair, Senior Independent Director and Director of Corporate Governance.
- Act as a point of contact between COG and CQC should there be a serious patient safety concern that needs to be escalated, where all internal channels for raising concerns have been exhausted.
- Represent concerns that Governors may have either as a body or individually to the Chair; this includes chairing the Governor pre-meeting, summarising

the feedback and submitting to the FT Office. Governors will still be encouraged to use the 'Raising Governor Issues' process.

- Present an annual report of the Governors' activities and effectiveness to the Annual General/Public Meeting.
- Attend external events such as the Lead Governor Network meetings

The Deputy Lead Governor will fulfil the above roles in the absence of the Lead Governor.

The Lead Governor/Deputy Lead Governor other than attending meetings, events in their role, will have no greater rights or special privileges than any other member of the Council of Governors.

### **Term of Office**

The Lead Governor and Deputy Lead Governor will be an elected governor and will hold office as Lead Governor or Deputy Lead Governor for the period they are an elected governor and/or for a maximum period of three years.