

# Council of Governors

## Terms of Reference

<b>Document Owner: Director of Corporate Affairs</b>
<b>Related Documents:</b> <b>Constitution</b> <b>Standing Orders</b> <b>Scheme of Reservations and Delegations</b> <b>National Health Service Act 2006</b>

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### 1. Constitution

The Council of Governors is established in line with legislation to discharge two main statutory duties: to hold the non-executive Directors to account (both collectively and individually) for the performance of the Board of Directors; and to represent the interests of the members of the Trust as a whole and the interests of the public.

The Council of Governors is derived from NHS Act 2006 and as amended by the Health and Social Care Acts (2012 and 2022). This document should be read in conjunction with the Acts.

### 2. Authority

The Council of Governors' powers are set out in the Trust Constitution, and are in line with the legislation indicated above. The Council derives authority from this legislation, and is accountable to Trust members.

The Council of Governors may establish Committees and delegate authority to them to carry out the detailed work of its ad hoc duties, but may not delegate its two statutory duties, nor the final approval of those areas it has delegated.

### 3. Objectives and Duties

The Council of Governors will deliver the following statutory duties:

- To hold the non-executive Directors to account (both collectively and individually) for the performance of the Board of Directors; and
- To represent the interests of the members of the Trust as a whole and the interests of the public.

The Council of Governors will seek the views of members and stakeholders and keep them informed through the mechanisms set out within the Membership Strategy and by holding an Annual Members' Meeting.

The Council of Governors will undertake the other ad hoc duties in line with legislation:

- Appoint and, if appropriate, remove the Trust chair and other non-executive directors
- Decide the remuneration and allowances and other terms and conditions of office of the chair and the other non-executive directors
- Approve (or not) any new appointment of a chief executive
- Appoint and, if appropriate, remove the Trust's auditor
- Receive the Trust's Annual Report, including Annual Accounts, at a general meeting of the Council of Governors
- Provide views on the Trust's forward plan
- Hold the non-executive directors, individually and collectively, to account for the performance of the Board of Directors
- Represent the interests of the members of the Trust as a whole and the interests of the public
- Approve significant transactions (example Acquisitions and Mergers)
- Approve an application by the Trust to enter into a merger, acquisition, separation, or dissolution
- Decide whether the Trust's non-NHS work would significantly interfere with its principal purpose, which is to provide goods and services for the health service, or performing its other functions
- Approve amendments to the Trust's constitution

#### **4. Equality and Diversity**

The Council of Governors will seek to promote and enhance equality, diversity, and inclusion across the Trust, both in the discharge of its duties and decision-making processes, and in representing these values in all areas it touches. It will have regard for the NHS Constitution and ensure that it complies with relevant legislation and best practice in the conduct of its duties.

#### **5. Membership**

The Council of Governors shall be composed as per the provisions in the Trust Constitution:

- Thirteen Public Governors from the following areas of the Public Constituency:
  - Bebington and Clatterbridge
  - Bidston and Claughton
  - Birkenhead, Tranmere, and Rock Ferry
  - Bromborough and Eastham
  - Greasby, Frankby, Irby, Upton and Woodchurch
  - Heswall, Pensby and Thingwall
  - Leasowe, Moreton and Saughall Massie
  - Liscard and Seacombe
  - Neston, Little Neston, Parkgate, Riverside, Burton, Ness, Willaston and Thornton
  - New Brighton and Wallasey
  - North West and North Wales
  - Oxtun and Prenton
  - West Wirral
- Five Staff Governors from the following classes:
  - Registered medical practitioners and registered dentists
  - Registered nurses and registered midwives
  - Other healthcare professional staff

- Other Trust staff
- Two Local Authority Governors to be appointed by Wirral Borough Council
- Two Governors to be appointed by:
  - Liverpool University
  - Wirral Third Sector Assembly

Attendance at meetings will be monitored by the Board Secretary and shall be reported in the Annual Report. In line with the Trust Constitution and the Code of Conduct for Governors, unexcused attendance at three consecutive meetings of the Council may constitute grounds for discussions with the Chair.

## **6. Attendance**

Meetings of the Council of Governors may be attended by one or more of the Directors to obtain information about the Trust's performance of its functions or the Directors' performance of their duties.

## **7. Conflicts of Interest**

Notwithstanding the definition of material interests applicable to Governors as set out in the Constitution, due consideration of interests will be regularly monitored.

Attendees, including Non-Executive Directors, may not be present for discussions which pertain to their performance, tenure, or remuneration.

## **8. Quorum and Frequency**

A quorum shall be at least eight Governors including not less than five Public Governors are present.

The Council of Governors should meet sufficiently regularly to discharge its duties. The Council of Governors would be expected to meet as a full Council at least four times a year (plus the Annual Members' Meeting). Governors should make every effort to attend the meetings of the Council of Governors.

## **9. Rights and Voting Powers**

Governors should use their rights and voting powers from the 2012 Act to represent the interests of members and the public at large on major decisions taken by the Board of Directors. These voting powers require:

- More than half the members of the Board of Directors who vote and more than half the members of the Council of Governors who vote to approve a change to the Constitution of the NHS foundation trust
- More than half the Governors who vote to approve a significant transaction.
- More than half the Governors to approve an application by a trust for a merger, acquisition, separation, or dissolution
- More than half the Governors who vote to approve any proposal to increase the proportion of the Trust's income earned from non-NHS work by 5% a year or more. For example, Governors will be required to vote where an NHS foundation trust plans to increase its non-NHS income from 2% to 7% or more of the Trust's total income
- Governors to determine together whether the Trust's non-NHS work will significantly interfere with the Trust's principal purpose, which is to provide goods and services for the health service in England, or its ability to perform its other functions

## **10. Reporting**

The minutes of all meetings shall be formally recorded and presented to the next meeting of the Council of Governors for approval.

The agenda and supporting papers of each meeting shall be displayed on the Trust website.

**11. Conduct of Meetings**

The agenda and supporting papers will be sent out at least four working days prior to the Council of the Governors, unless there are exceptional circumstances authorised by the Chair.

Authors of papers should use the standard template.

Presenters of papers can expect all members to have read the papers and should keep to a verbal summary outlining the purpose of the report and its recommendations. Governors may question the presenter.

**12. Performance Evaluation**

As part of the Council of Governors performance review process, and in line with the guidance on Governors' duties, the Council of Governors shall review its collective performance at least once every three years.

**13. Review**

These terms of reference shall be reviewed as required and at least annually.