

# The Board of Directors and the Governors' Council WORKING TOGETHER STRATEGY

| Unique Reference / Version |  |                |                                  |                             |
|----------------------------|--|----------------|----------------------------------|-----------------------------|
| Primary Intranet Location  | Policy Name  | Version Number | Next Review month                | Next review year            |
| Corporate Governance       | The Board of Directors and The Governors' Council<br>WORKING TOGETHER STRATEGY | <u>54</u>      | <del>April</del> <u>November</u> | <del>2019</del> <u>2020</u> |

|                     |  |
|---------------------|--|
| Current Author      | Gill Rejzl                                 |
| Author's Job Title  | Trust Secretary                            |
| Department          | Corporate                                  |
| Ratifying Committee | BoD and Governors' Council                 |
| Ratified Date       | <del>April 2016</del> <u>November 2017</u> |
| Review Date         | <del>April 2019</del> <u>November 2020</u> |
| Owner               | Trust Chair                                |

It is the responsibility of the staff member accessing this document to ensure that they are always reading the most up to date version. This will always be the version on the intranet

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| Related Policies<br>Working Together <b>Strategy</b> Supplement |  |
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| <b>Stakeholders</b> | <b>Board of Directors<br/>Governors' Council</b> |
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| Version | Date          | Author  | Author's Job Title | Changes   |
|---------|---------------|---------|--------------------|---|
| V1      | May 2011      | G Rejzl | Trust Secretary    |   |
| V2      | May 2011      | G Rejzl | Trust Secretary    | No Material Changes                               |
| V3      | July 2014     | G Rejzl | Trust Secretary    | For provisions of Health and Social Care Act 2012 |
| V4      | April 2016    | G Rejzl | Trust Secretary    | No Material Changes                               |
| V5      | November 2017 | G Rejzl | Trust Secretary    | No Material Changes                               |

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| <p><b>Short Description</b></p> <p>The Working Together Strategy sets out how the Board of Directors and Governors' Council will work together to enable their key respective statutory duties to be delivered effectively.</p> |
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| <p><b>Key words</b></p> <p><b>Governor</b><br/>Statutory<br/>Regulator - NHS Improvements (previously Monitor)</p> |
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# **The Board of Directors and the Governors' Council**

## **WORKING TOGETHER STRATEGY**

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### **1. Introduction and Context**

The Working Together Strategy is part of a suite of documents, which together provide a corporate governance framework for the effective operation of the Board of Directors and Governors' Council. The individual elements of the governance suite require the approval of both the Board of Directors and Governors' Council. The suite of documents includes:

#### **Internal**

- The Trust Constitution and Annexes
- The Governance Framework
- The Standing Orders for the Board of Directors
- The Standing Orders for the Governors' Council
- The Dispute Resolution Procedure
- The Policy for Engagement between The Governors' Council and The Board of Directors
- The Code of Conduct
- The Policy for dealing with alleged non-compliance with the Code of Conduct
- The Board of Directors' Annual Timetable and Forward Plan
- The Governors' Council Annual Timetable and Forward Plan
- Chair and Senior Independent Director role descriptions
- Induction Programme – Governors' Council and Board of Directors
- WORKING TOGETHER Supplement – comprising processes for the removal of the Chair, a Non-Executive Director or the Auditor

#### **External**

- Schedule 7 to the NHS Act 2006
- The provisions of the Health and Social Care Act 2012
- Monitor's Code of Governance – [updated July 2014](#)
- Monitor's - Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors - August 2013
- The Nolan Principles

The Working Together Strategy sets out how the Board of Directors and Governors' Council will work together to enable their key respective statutory duties to be delivered effectively. Some statutory functions of the Governors' Council will only be exercised in extreme circumstances. These are set out in separate procedural documents.

## **The Working Together Strategy – Key procedures**

- A. Appointment of the Non-Executive Directors (NEDs)
- B. Appointment of the Chair
- C. Setting the Remuneration and Allowances of the NEDs and Chair
- D. Approval of the appointment of the Chief Executive Officer
- E. Strategic planning and the Forward Plan
- F. Appointment of the Auditor
- G. Receiving the Trust's Annual Accounts, Auditors' Report and Annual Report (including the Quality Account)
- H. Relationships with the Membership
- I. Decisions on mergers, acquisitions, separations or dissolutions and non-NHS income
- J. Significant Transactions

## A. Appointment of the Non-Executive Directors (NED Appointments)

(i) The Governors' Council will set up a Nomination and Remuneration Committee to oversee the process of the appointment and remuneration of the Non-Executive Directors and to make recommendations for appointment and remuneration to the Governors' Council. The committee will comprise at least:

- The Trust Chair
- 4 public governors
- 1 staff governor
- 1 appointed governor

The Nomination and Remuneration Committee will determine whether the Committee will be chaired by the Trust Chair or a governor and will appoint the chair.

The Nomination and Recruitment Committee may be advised by a Human Resources Business Partner and/or the Trust Secretary.

(ii) Where a vacancy for a NED arises or is expected due to a NED coming to the end of his/her term of office and the existing non-executive director seeks re-appointment, the Board of Directors will review its skills gap analysis to determine the skills, knowledge and experience required by candidates for the vacancy taking into account the views of the Governors. The Nomination and Remuneration Committee will:

- a. assess the existing office holder against the current role description, person specification and identify Board skills/experience requirements
- b. assess the post-holder's on-going independence
- c. assess the post holder's performance appraisal outcomes (to be confirmed by the Chair)
- d. assess whether the skills and experience of the post-holder continue to contribute to the skill-set required on the Trust Board (determined by current strategic position)
- ~~d-e.~~ proceed to stage (xi) if assessment criteria A (ii) a. – d. are met

(iii) Where the current post holder does not seek re-appointment or where assessment criteria A (ii) a. – d. are not met, the Board of Directors will, through the Trust Chair, propose a timetable for recruitment to the vacancy.

(iv) The Trust Chair will present the skills, knowledge and experience profile and the timetable for recruitment to the Nomination and Remuneration Committee.

(v) The Human Resources Business Partner and / or Trust Secretary will prepare a draft role description, person specification, advertisement for the vacancy and proposed advertising campaign (e.g. where will the role be advertised?), based on the skills, knowledge and experience profile. Additional support will be secured from the Communications Team where required.

(vi) The Nomination and Remuneration Committee will approve the role description, person specification and advertisement, timetable for recruitment and advertising methodology.

(vii) The Nomination and Remuneration Committee will appoint a Selection Panel, which will include the Trust Chair. The Nomination and Remuneration Committee will determine the governor membership of the Selection Panel.

The Nomination and Remuneration Committee will appoint the panel Chair.

The panel may appoint an independent advisor (the independent advisor could be a NED from another Trust or a professional recruitment advisor). The independent advisor will not be a member of the panel and will not have a vote.

**Note:** Members of the Selection Panel will ideally have experience of, or will have undertaken training and development in recruitment and selection / interviewing techniques and equality and diversity.

The Selection Panel may be advised by a Human Resources Business Partner and/or the Trust Secretary.

(viii) The Selection Panel will review applications against the criteria of the Role Description and Person Specification and will shortlist candidates for interview.

(ix) The Selection Panel will undertake interviews and will report the outcome of the interviews, including the panel's preferred candidate to the Nomination and Remuneration Committee for approval. This stage may take place via email communication.

(x) The Human Resources Business Partner will take up references and take reasonable steps to confirm the eligibility of the candidates to become a Non-Executive Director in accordance with the provisions of the Constitution, Annexes and CQC Fit and Proper Persons Regulation. Advice, where appropriate will be sought from the Trust Secretary.

(xi) The Nomination and Remuneration Committee will present the summary process and recommendations on the reappointment/appointment of the preferred candidate to the Governors' Council for approval.

(xii) The Governors' Council will consult the Board of Directors before a final decision is made.

(xiii) The Trust Chair will notify the Board of Directors and successful applicant.

## B. Appointment of the Chair

(i) The Governors' Council will set up a Nomination and Remuneration Committee to oversee the process of the appointment and remuneration of the Chair and to make recommendations for appointment and remuneration to the Governors' Council. The Committee will comprise at least:

- The Senior Independent Director (SID) or an Independent Non-Executive Director (NED)
- The Chief Executive Officer
- 4 public governors
- 1 staff governor
- 1 appointed governor

The Committee will determine whether the Committee will be chaired by the SID / Independent NED or a governor and will appoint the Committee chair.

The Committee may co-opt an independent advisor and / or a specialist 'search' agent. Neither an independent external adviser nor a search agent will be a member of, or have a vote on the Nomination and Remuneration Committee.

The Nomination and Remuneration Committee may be advised by a Human Resources Business Partner and/or the Trust Secretary.

(ii) Where a vacancy for the Chair arises or is expected due to the Chair coming to the end of his/her term of office and the existing Chair seeks re-appointment, the Board of Directors will review its skills gap analysis to determine the skills, knowledge and experience required by candidates, taking into account the views of the Governors. The Nomination and Remuneration Committee will:

- a. assess the existing office holder against the current role description and person specification
- b. assess the post-holder's on-going independence
- c. assess the performance appraisal outcomes (to be confirmed by the Senior Independent Director)
- d. assess whether the skills and experience of the post-holder continue to contribute to the skill-set required on the Trust Board (determined by current strategic position)
- ~~d.e.~~ proceed to stage (xi) if assessment criteria B (ii) a. – d. are met

(iii) Where the current post-holder does not seek re-appointment or where assessment criteria B (ii) a. – d. are not met, The Board of Directors will, through the SID, propose a timetable for recruitment.

(iv) The SID will present the skills, knowledge and experience profile and the timetable for recruitment to the Nomination and Remuneration Committee.

(v) The Human Resources Business Partner and Trust Secretary will prepare a role description, person specification, advertisement for the vacancy and proposed recruitment and advertising campaign (e.g. where will the role be advertised).

(vi) The Nomination and Remuneration Committee will approve the role description, person specification and advertisement, timetable for recruitment and recruitment and advertising methodology.

(vii) The Nomination and Remuneration Committee will establish a Selection Panel, which will include the Senior Independent Director (SID) / Independent NED and the Chief Executive Officer.

The Nomination and Remuneration Committee will determine the governor membership of the Selection Panel.

The appointment of an Independent Advisor shall be undertaken in line with the requirements of the Regulator.

The Nomination and Remuneration Committee will determine whether the panel will be chaired by the SID/Independent NED or a governor and will appoint the panel chair.

**Note:** Members of the Selection Panel will ideally have experience of, or will have undertaken training and development in recruitment and selection / interviewing techniques and equality & diversity.

The Selection Panel will be supported by a Human Resources Business Partner, the Trust Secretary and the Search Agent.

(viii) The Selection Panel will review applications against the advertised criteria and Person Specification and shortlist candidates for interview.

(ix) The Selection Panel will undertake interviews and will report the outcome of the interviews, including the panel's preferred candidate to the Nomination and Remuneration Committee. This stage may take place via email communication.

(x) The Human Resources Business Partner will take reasonable steps to confirm the eligibility of the candidates to become a Non-Executive Director in accordance with the provisions of the Constitution, Annexes and CQC Fit and Proper Person Regulation. Advice, where appropriate will be sought from the Trust Secretary.

(xi) The Nomination and Remuneration Committee will report the summary process and recommend the reappointment/appointment of the preferred candidate to the Governors' Council for approval.

(xii) The Governors' Council will consult the Board of Directors and the Regulator before a final decision is made.



(xiii) The SID will notify the Board of Directors and the successful applicant.

**NB – Appointing a Vice-Chair**

The Governors' Council may agree to appointing an existing Non-Executive Director as Vice-Chair at a meeting of the Council. Alternatively a separate appointment to the role of Vice Chair may be made.

In this case and due to the fact that the Vice-Chair may be required to stand in for the Chair, the appointment will be made using the same process as for the Chair, with one notable difference:

- The Chair will sit on the Committee and selection panel

## **C. Setting the Remuneration and Allowances of the NEDs and Chair**

(i) The Governors' Council will set up a Nomination and Remuneration Committee to oversee the process of the appointment and remuneration of the NEDs and the Chair and to make recommendations for appointment and remuneration to the Governors' Council. The committee will comprise at least:

- The Chair or SID (The Chair will participate in respect of NED remuneration and the SID will participate in respect of the Chair's remuneration)
- 4 public governors
- 1 staff governor
- 1 appointed governor

The Committee will determine whether the Committee will be chaired by the Trust Chair or a governor and will appoint the chair.

(ii) In respect of remuneration for Non-Executive Directors, the Trust Chair will consult with the Director responsible for Human Resources to establish a timetable for review of NED remuneration and to benchmark and identify current remuneration and allowances for comparable positions.

(iii) In respect of remuneration for the Chair, the Director responsible for Human Resources will work directly with the Nomination and Remuneration Committee, excluding the Trust Chair, to establish a timetable for review of the Chair's remuneration and to benchmark and identify current remuneration and allowances for comparable positions.

(iv) The Nomination and Remuneration Committee will agree terms to be recommended to the Governors' Council

(v) The Governors' Council will approve terms in respect of the remuneration and allowances of the Chair and NEDs

(vi) The Trust Human Resources Team will issue letters to Non-Executive Directors on behalf of the Governors' Council, setting out revised remuneration and allowances.

#### **D. Approval of the appointment of the Chief Executive Officer**

(i) The Non-Executive Directors will determine the process for the recruitment and selection of the Trust's CEO.

(ii) The process for the recruitment and selection of the Trust's Chief Executive Officer shall include governor representation.

(CEO)

(iii) A meeting of the Governors' Council (extraordinary if necessary) will be called immediately after the identification of a preferred candidate for the position of CEO, at which the Trust Chair will present the summary assessments and recommendation of the Appointment Panel that the Governors' Council approves the appointment of the CEO (by majority of those Governors present and voting).

(iv) Should the Governors' Council fail to approve the appointment of the preferred candidate to the post of Chief Executive, it will be incumbent on the Board of Directors and the Governors to work together to break any deadlock, with concerns communicated at the earliest possible stage.

The Appointment Panel of Non-Executives may provide further assurances in relation to any concerns the Governors' Council have expressed in refusing approval. Alternatively, the Appointment Panel may decide to seek a new candidate for appointment and approval by the Governors' Council.

(v) The successful candidate will be appointed by the Non-Executive Directors.

#### **Note - Timetable:**

The process will be timetabled to enable the successful candidate to be advised within 24 hours of the interview.

#### **Note – Governors' Council deciding not to approve the CEO appointment**

In respect of the Governors' Council deciding not to approve the preferred candidate for appointment as CEO, the Regulator's Reference Guide for NHS FT Governors states that "such a situation will be rare and sound (including legally sound) reasons are required for this".

Should this situation arise, the process, the decision and the reasons for that decision will be set out in the Trust's Annual Report, whatever the outcome.

## **E. Strategic planning and the Forward Plan**

Strategic Planning and the Trust's Forward Plan will be determined via a cycle of development, implementation and review.

- (i) Annually, and in accordance with its strategic planning and budget setting timetable, the Board of Directors will undertake initial consideration of external and internal strategic drivers in respect of the Trust's Forward Plan.
- (ii) The Board will discuss its emerging strategic themes and objectives with the Governors. Early discussions may be undertaken at a meeting of the Governors' Business Committee, in line with the terms of reference of the committee.
- (iii) The Forward Plan will be drafted, taking Governors' Council views into account.
- (iv) The Board of Directors will approve the Forward Plan.
- (iv) The Forward Plan will be reported to the Governors' Council. The Board of Directors will report to the Governors' Council those areas where Governors' views have not been incorporated into the Forward plan.
- (v) The Forward Plan will be submitted to the Regulator.
- (vi) The Governors' Council will be kept informed of the delivery of the Trust's strategic plans through periodic updates and the reporting of key performance indicators.

## **F. Appointment of the Auditor**

The Governors' Council will consider the arrangements for external audit annually, following the completion of the annual audit.

(i) The Chair of the Audit Committee will make the Audit Committee's report to the Governors' Council, reporting on an assessment of the standard of the auditors' work and value for money. The report will include a recommendation with respect to the retention of the auditors.

(ii) Where a new auditor is to be appointed due to:

- Removal
- Expiry of existing contract
- Resignation

The Audit Committee will draw up proposed criteria for the appointment of the external auditor and a process for nomination.

(iii) The Governors' Council will establish a Governors' - Audit Task and Finish Group which will receive advice from the Director of Finance.

(iv) The Audit Committee will prepare a specification, defining the role of the external auditor and the capabilities required. This will be agreed with the Governors' - Audit Task and Finish Group.

(v) A formal and transparent procurement process will be run in accordance with the Trust's Standing Financial Instructions and procurement processes.

(vi) A shortlist will be determined by the Audit Committee, taking the views of the Governors' - Audit Task and Finish Group into account.

(vii) Where presentations are to be made by the shortlisted candidates, they shall be made to the Audit Committee and the Governors' - Audit Task and Finish Group.

(viii) In strict accordance with transparent appointment criteria, the Governors' Audit Task and Finish Group and Audit Committee representatives will identify a preferred candidate.

(ix) The Audit Committee and Governors' Audit - Task and Finish Group will prepare a report for the Governors' Council, setting out:

- The procurement process followed
- The results of the procurement process
- Recommendations for appointment

(x) The Governors' Council will approve the recommendation to appoint the external auditor.

(xi) The terms of engagement of the auditor will be agreed with the Audit Committee, particularly in respect of the length of contract.

(xii) Should the Governors' Council fail to make an appointment, it may be necessary for the contract with the incumbent auditor to be extended.

**Note:** The process and timetable will ensure that the Trust has an external auditor in place at all times.

**G. Receiving the Trust's Annual Accounts, Auditors' Report and Annual Report (including the Quality Account)**

The Chair, NEDs and executive will provide regular updates on the performance of the Trust in respect of Quality, Operational Performance, Finance and Workforce throughout the year to the Governors' Council.

(i) The Annual Report (including the Quality Report) and Financial Accounts will be approved by the Board of Directors. The Board of Directors will receive the Auditor's Opinion and Report on the Annual Report and Accounts.

(ii) The Trust will lay its Annual Report, Accounts and Auditor's report before Parliament.

(iii) The Annual Report (including the Quality Report), Financial Accounts and Auditor's report will be presented to the Governors at the Annual Members' Meeting.

**Note:** The timetable for presentation of the Annual Report and Financial Accounts will be determined in accordance with the Annual Reporting Manual (ARM).

## **H. Relationships with the Membership**

### **The Membership and Communications Committee**

The Governors' Council has established a committee called the Membership and Communications Committee.

The FT Team prepares a regular analysis of the diversity of the membership aligned with the profile of the community served by the Trust and reports this to the Membership and Communications Committee.

The Membership Recruitment & Communications and Engagement Strategy and Action Plan ensure that steps are taken to maintain a membership that continues to reflect the profile of the community served by the Trust. The profile is reviewed regularly with the Membership and Communications Committee.

The Membership and Communications Committee provides a regular Membership update to the Governors' Council.

The Membership and Communications Committee has set up an editorial panel to enable input to the Members' newsletter, web page and other communications.

The Membership and Communications Committee will work with the Executive and the FT Office to agree a programme of Public and Membership Events and Membership Recruitment Campaigns.

The Membership and Communications Committee will work with the FT Office to establish officer support and cost effective methods of communicating with individual membership constituencies, areas and classes e.g. Staff and Public Constituency meetings.

### **Representing the views of the Membership**

The Membership and Communications Committee will work with the Executive of the Trust and the FT Office to establish cost effective methods of canvassing the views and priorities of the Membership. This includes:

- A Patient Experience Group
- Membership Surveys
- Membership cohort fora and focus groups

The Membership and Communications Committee will review the effectiveness of its activities annually.



## **I. Decisions on mergers, acquisitions, separations or dissolutions and non-NHS income**

The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Governors' Council.

Similarly, the Trust may increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England, only if more than half of the members of the Governors' Council of the Trust voting approve its implementation.

Should the Board present a case for a merger, acquisition, separation or dissolution, or a case to increase by 5% or more the proportion of its total income in any financial year attributable activities other than the provision of goods and services for the purposes of the health service in England, it may engage with the Governors' Business Committee in the first instance, in line with the terms of reference of the committee. However, the Governors' Council may not delegate its powers to a committee and representations would in this case need to be made by the Business Committee to the Governors' Council to inform the decision of the full Council.

## **J. Significant Transactions**

The Trust has chosen not to define the term Significant Transactions in its Constitution.

However, the Governors' Council will be consulted on any transactions that would be deemed to have an impact on patients or the public served by the Trust.

## **Monitoring and Review**

The Board of Directors and the Governors' Council will review the effectiveness of its suite of governance policies and procedures in accordance with their published review frequency.

Date approved by the Board of Directors – November 2017

Date approved by the Governors' Council – November 2017

Date for Review – November 2020

## EQUALITY IMPACT ASSESSMENT

This policy has been subject to an Equality Impact Assessment (see below) and is not considered to have a discriminatory impact on any individual or groups. A translated version of this policy will be provided upon receipt of request.

## Equality Impact Assessment Tool

### STAGE 1 - SCREENING

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| <b>Name &amp; Job Title of Assessor:</b> Gill Rejzl, Trust Secretary |
| <b>Policy or Function to be assessed:</b> Working Together Strategy  |
| <b>Date of Initial Screening:</b> 17 <sup>th</sup> September 2010    |

|    |   | Yes/No | Comments |
|----|---|--------|----------|
| 1. | <b>Does the policy, function, service or project affect one group more or less favourably than another on the basis of:</b> |        |          |
|    | • Race & Ethnic background  | No     |          |
|    | • Gender including transgender  | No     |          |
|    | • Disability  | No     |          |
|    | • Religion or belief  | No     |          |
|    | • Sexual orientation  | No     |          |
|    | • Age   | No     |          |
| 2. | <b>Does the public have a perception/concern regarding the potential for discrimination?</b>                                | No     |          |

If the answer to any of the questions above is yes, please complete a full Stage 2 Equality Impact Assessment.

| **Signature of Assessor:** Gill Rejzl      November 2017

| **Signature of Line Manager:** Jon Green      November 2017