Agenda Item No.19c

NHS
The Queen Elizabeth Hospital King's Lynn
NHS Foundation Trust

REPORT TO THE GOVERNORS' COUNCIL & BOARD DIRECTORS (IN PUBLIC)

RESPONSIBLE DIRECTOR:	REPORT FOR:		IMPACT ON BUSINESS:		
	Decision	√	High	Med	Low
E Libbey Trust Chair	Discussion			√	
	Information				
LEAD MANAGER:	**REPORT TYPE:**		**BAF REFERENCES & RAG:**		
	Strategic				
	Operational				
	Governance	√	**RELATED WORK: (PREVIOUS PAPERS TO COMMITTEE)**		
PEER ASSIST:	**PEER REVIEW:**				
Gill Rejzl, Trust Secretary	N/A				
CQC Domain: (safe, caring, effective, responsive, well-led)	Well-led				

Meeting Date: **29 May 2018**

Report Title: **Review of the Trust's Constitution, Annexes and Standing Orders**

PURPOSE:

To seek Governors' Council and Board approval for and where appropriate, the recommendation of the revised Constitution, Annexes and Standing Orders to the Annual Members' Meeting (AMM).

SUMMARY:

The Constitution Working Group (2 governors, 2 NEDs and the Trust Secretary) has in May 2018, undertaken its annual review of the Trust's Constitution. The annual review is to establish whether proposed amendments to the Constitution, Annexes and/or Standing Orders to align with legislation, regulatory guidance or Trust policy, are to be recommended.

The Constitution Working Group has identified several proposed provision amendments, identified in **red / tracked changes** below.

Where an amendment is proposed to the constitution in relation to the powers or duties of the Governors' Council (or otherwise with respect to the role that the Governors' Council has as part of the Trust), the proposed amendment must be approved by the Annual Members' Meeting (12 July 2018)

The rationale for each proposed change is added after the related proposal in *blue italics.*

Once fully approved, the Trust's revised constitution will be sent to NHSi for their public records. There is no longer a requirement for Foundation Trusts to consult the regulator prior

to making changes to their constitutions.

The proposed amendments are minor and are in line with the National Health Service Act 2006 as amended by the Health and Social Care Act 2012 and it is not considered necessary to take legal advice in this instance.

RISK ASSESSMENT (CROSS-REFERENCE WITH RISK REGISTER WHERE APPROPRIATE):

Strategic / External	Operational/ Organisational	Financial	Clinical	Legal/ Regulatory	Reputational / Patient Experience
				√	

RECOMMENDATION/S:

The Governors' Council / Board of Directors is invited to approve the revised Constitution, Annexes and Standing Orders and recommend the revisions as appropriate, to the Annual Members' Meeting.

Constitution

21. Board of Directors – composition

21.1 The Trust is to have a Board of Directors, which shall comprise both executive and non-executive directors.

21.2 The Board of Directors is to comprise:

21.2.1 a non-executive Chairman and

21.2.2 up to 7 other non-executive directors; and

21.2.3 up to 7 executive directors.

21.3 One of the executive directors shall be the Chief Executive.

21.4 The Chief Executive shall be the Accounting Officer.

21.5 One of the executive directors shall be the Finance Director.

21.5 One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

21.6 One of the executive directors is to be a registered nurse or a registered midwife.

21.7 The Chief Executive, the Director of Finance, the Medical Director and the Chief Nurse~~Director of Nursing~~ shall be voting Board members. Other Executive officers may be voting Board members.

Proposal: - Change of role title from Director of Nursing to Chief Nurse

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ANNEX 3 – COMPOSITION OF THE GOVERNORS' COUNCIL

Elected governors

Public constituency area	Number of governors
West Norfolk	9
North Norfolk, Breckland, Rest of England	2
Cambridgeshire	3
South East Lincolnshire	2
Total elected governors	**16**

Appointed governors

Statutory governors	Number of governors
Norfolk County Council	1

Partnership governors	Number of governors
Borough Council of King's Lynn and West Norfolk	1
Breckland District Council	1

University of East Anglia	1
College of West Anglia	1
West Norfolk Carers	1
~~West Norfolk Clinical Commissioning Group~~	~~1~~
Freebridge Community Housing	1

Total appointed governors	**7**

Staff constituency

Classes	**Number of governors**
Clinical staff	3
Non-clinical staff	3
Total	**6**

Proposal: - Removal of WN CCG representative as an appointed governor:

- *STP and Alliance work has created numerous opportunities for working with the CCG*
- *Potential for a perceived conflict of interests*
- *Proposal made with the knowledge of the CCG*

Annex 5 - Additonal provisions – Governors' Council

3.2 Thereafter an elected governor shall hold office for three years.

3.3 An elected governor may not hold office for more than nine consecutive years, and shall not be eligible for election if he has held office for three terms.

3.4 An appointed governor may hold office for three years.

3.5 An appointed governor shall be eligible for reappointment at the end of his three year term.

3.6 An appointed governor may not hold office for more than nine~~six~~ consecutive years and shall not be eligible for reappointment if he has held office for ~~two~~ three terms.

Proposal: - Appointed Governor – maximum time in office increased from 6 to 9 years (3 terms) in alignment with elected governor arrangements and in recognition that really well-engaged appointed governors can be very helpful to the Trust in terms of broadened networks and deeper understanding of the needs of the public served by the Trust

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Annex 6 – Standing Orders for the Governors' Council

3.3 Powers and Duties of the Governors' Council

3.3.1 The powers and duties, conferred by the 2006 Act, as amended by the Health and Social Care Act 2012 on the Governors' Council, to be undertaken in accordance with the Trust Constitution, are:

(i) To appoint and remove the Chairman, Vice-Chairman and other non-executive directors of the Foundation Trust at a general meeting;

(ii) To approve at a general meeting the appointment by the non-executive directors of the Chief Executive (except for the initial Chief Executive);

(iii) To appoint or remove the auditor at a general meeting;

(iv) To have the governors' views taken into account by the Trust's Board of Directors on forward planning;

(v) To be presented with the Trust's Annual Report and Accounts and the report of the auditor on the Accounts at a general meeting or Annual Members' Meeting;

(vi) To decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors.

(vii) To hold the non-executive directors individually and collectively to account for the performance of the Board of Directors. (Statutory)

(viii) To represent the interests of Foundation Trust members as a whole and the interests of the Public. (Statutory)

(ix) To be able to require directors to attend a meeting to obtain information about foundation trust performance or director performance.

~~(vii)~~(x) To have the right to receive Board agendas and minutes

~~(viii)~~(xi) To a~~A~~pprove 'Significant transactions'. Approval means that more than half of the governors voting agree with the transaction.

~~(ix)~~(xii) To a~~A~~pprove an application by the Trust to enter into a merger, acquisition, separation or dissolution. In this case, approval means more than half of all governors agree with the application.

~~(x)~~(xiii) To ~~D~~decide whether the Trust's private patient work would significantly interfere with the Trust's principal purpose i.e. the provision of goods and services for the health service in England or the performance of its other functions.

~~(xi)~~(xiv) To ~~A~~approve any proposed increases in private patient income of 5% or more in any financial year. Approval means more than half of the governors voting agree with the increase.

~~(xii)~~(xv) To ~~A~~approve the Trust's constitution. Approval means more than half of the governors voting agree with the amendments.

Proposal: - Power and Duties of the Governors' Council updated to capture all powers and duties, including 2 statutory duties.

6.3.1 Trust Policy

All Trust staff, members of the Board and Governors' Council must comply with the Trust's Standards of Business Conduct, Conflicts of Interest and Anti-Fraud and Anti-Bribery Policies.

Proposal: - Standing Orders for both Board and Governors' Council updated to reflect Trust's very firm position on fraud and bribery

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Annex 7 – Standing Orders for the Board of Directors

6.4 Standards of Business Conduct

6.4.1 Trust Policy

All Trust staff and members of the Board of Directors and Governors' Council must comply with the Trust's Standards of Business Conduct, Conflicts of Interest and Anti-Fraud and Anti-Bribery Policies.

Proposal: - Standing Orders for both Board and Governors' Council updated to reflect Trust's very firm position on fraud and bribery