**DRAFT**

**GOVERNOR**

**HANDBOOK**

**The Role of Governors**

**Governors’ Statutory Responsibilities**

**Table 1: Statutory roles and responsibilities for the Council of Governors under the 2006 Act and amendments made by the 2012 Act**

|  |  |
| --- | --- |
| **Statutory roles and responsibilities** | **Additional powers** |
| * Appoint and, if appropriate, remove the chair; * Appoint and, if appropriate, remove the 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 NHS Foundation Trust’s auditor; * Receive the NHS Foundation Trust’s annual accounts, any report of the auditor on them, and the annual report at a general meeting of the Council of Governors; * 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”; * 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 in England, or performing its other functions; * Approve a report on the use of non-NHS income for the benefit of service users; * Approve amendments to the Trust’s constitution; * Approve any proposed annual increase of the Trust’s non-NHS income of more than 5%. | In preparing the NHS Foundation Trust’s forward plan, the Board of Directors must have regard to the views of the Council of Governors.  In preparing the Annual Report, the Board of Directors must publish the view from the CoG.  The Council of Governors may require one or more of the directors to attend a governors’ meeting to obtain information about performance of the trust’s functions or the directors’ performance of their duties, and to help the Council of Governors to decide whether to propose a vote on the trust’s or directors’ performance . |

**Additional Role of Governors in Oxford Health**

**Formal groups**

A distinction is made between nominated and elected governors. The following applies to elected governors, but nominated governors are encouraged to participate in the listed duties as far as they are able. However, nominated Governors are expected to participate in the same way as elected Governors are as regards Council of Governor Meetings, the annual public meeting, attending relevant training and keeping up to date with Council papers.

All elected governors should be associated with a minimum of one of the following:

* Nomination and Remuneration Committee (only statutory committee)
* Quality and Safety Sub-Group
* Patient Experience Sub–Group
* Finance Sub-Group
* Working Together / Governance Sub-Group

**Other duties**

|  |  |  |
| --- | --- | --- |
| **Duty** | **Expected** | **Desirable** |
| Attend meetings of the Council of Governors | 3 annually | 4 annually |
| Attend annual public meeting | 1 annually |  |
| Attend public meetings with constituents that have been arranged by the Trust | 1 annually | 2 annually |
| Participate in governor constituency group meetings (where such exist) |  | Yes |
| Participate in governor surgeries (where such exist) |  | Yes |
| An elected governor nominated by the Council of Governors will observe the public part of board meetings and make notes for other governors on matters that are of relevance to governors that may not / are unlikely to be minuted. [The Trust will ensure that the nominated governor will have access to all draft  public board papers at or before that meeting, ideally at the same time as directors and NEDs receive these papers.  The Council of Governors may nominate any elected governor for each Board meeting, providing the name is duly notified to the Director of Corporate Affairs & Company Secretary 2 weeks before each Board meeting.]  [The nominated governor will also observe the private part of that board meeting, but will not circulate notes relating to this part of the meeting. The Trust will ensure that this governor (duly notified to the Director of Corporate Affairs & Company Secretary 2 weeks before the meeting) will have access to all draft private board papers at, or before the meeting, ideally at the same time as directors and NEDs receive these papers.]  The content of  private papers or any issue discussed in this part of the meeting will be kept strictly confidential by the governor unless they deem them to be of sufficient importance that they discuss them with the Lead Governor, (or in their absence the Deputy Lead Governor). If the Chairman of the Trust considers that a matter is too confidential or commercially sensitive to be discussed in front of the nominated governor for that meeting then the Trust Chairman/Company Secretary will inform the Lead Governor (or in their absence the Deputy Lead Governor)  before the meeting, indicating the nature of the matter to be discussed. In such circumstances the nominated governor will not have access to the private papers and will withdraw whilst that matter is discussed at the board meeting. If the Lead Governor believes the subject maybe sufficiently important to the remit of the Council of Governors they may request to view a copy of the relevant paper at the Trust’s offices, but not retain a copy. |  | 2 + annually |
| Keep up to date with Council papers | Yes |  |
| Keep up to date with Board papers |  | Yes, as far as is practical |
| Participate in a Sub-Group | Yes | Usually 4 meetings annually |
| Assist in member recruitment |  | Yes |
| Participate in annual skills audit and similar mechanisms |  | Yes |
| Attend relevant training that is offered | Yes |  |
| Report back from their constituencies when appropriate, ( this to be added to the normal CoG agenda for every meeting) | Yes |  |
| Act as a “buddy” to recently appointed governors. |  | Yes |

**Time commitment as a governor**

Given the duties above, elected governors might expect to commit to an average of 15 hours a quarter, Governors may of course commit more time than this if they wish.

Please discuss with the Director of Corporate Affairs/Company Secretary, lead governor, or deputy lead governor if you have difficulties in meeting the minimum expectations of your role as governor.

If governors are unable to attend two successive Governors meetings without apology the Trust may enquire as to the reasons for this. Governors who fail to attend [three] successive Council of Governors’ meetings without due cause may have their tenure of office terminated.

**What it means to be a governor**

Governors act as critical friends to the Trust, and in doing so should represent the interests of stakeholders (the public, service users, Trust staff and organisations that work closely with or have an interest in the Trust). In addition to performing statutory duties, all governors have advisory and guardianship roles that have been set out above. In addition there are facilitatory roles that include:

* Commenting on the annual plan through assessing the quality accounts
* Supporting the Board of Directors by providing an independent perspective on Trust plans and developments
* Ensuring the Trust seeks the views of members to inform its plans

In practice, governors fulfil their role through a variety of mechanisms. It is the Trust’s responsibility to ensure that governors have the information; training and access to the Trust Board that they need to fulfil the role.

**Representing members**

Governors face in two directions – they represent the interests of members to the Trust, and they also let members know what is happening at the Trust. Governors are the link between members and the directors who make decisions about Trust services. Governors are responsible for representing the views of the members and partner organisations to the Board of Directors, and facilitate the representation of interests and feedback of the membership and the public to ensure that any concerns are addressed as regards matters that are pertinent to the role of a governor. These matters do not include individual concerns or complaints unless these underlie and evidence systematic issues.

## Governors’ working arrangements

**Working with the Board of Directors**

The Council of Governors and the Board of Directors are both chaired by the Trust Chair, who is their key link, along with the Director of Corporate Affairs/Company Secretary. The relationship between the Council and the Board is a vital one, and governors and directors work together, bringing a variety of knowledge and skills to add value to the Trust and its work. The Council and the Board work together on varied issues, including the Annual Plan and membership engagement.

**Trust committees and groups**

Governors have a number of opportunities to get involved in the work of the trust e.g. through sub-groups.

**Appraisals and objectives**

The Council of Governors will annually set its own objectives and assess its collective performance once a year. Before the start of a financial year the governors will set itself a number of objectives. At the end of the financial year the governors will self-assess if these objectives have been met.

# Appendix 1 - Notes on the Governor Role

**The Council of Governors does not deal with:**

* The day-to-day operation of the Trust
* Monitoring services and hospital performance against NHS standards
* Controlling expenditure and securing income
* Individual cases, claims and complaints from service users.

**Standard methods for governors to provide scrutiny and assurance:**

* Receiving the board agendas prior to the meeting and minutes after the meeting.
* Requesting, receiving and evaluating in-year information updates from the Board, chief executive, the executives and non-executive directors as appropriate. The governors may require them to attend a meeting to answer questions.
* Reviewing the quarterly NHSI (NHS Improvement) performance returns and questioning non-executive directors where standards do not meet national requirements.
* Receiving performance appraisal information for the chair and non-executive directors.
* Receiving the annual report and accounts (including the quality report) plus the Auditor’s report.
* Knowledge of external reviews and accreditations (eg CQC inspections, accreditation visits etc.)

Note the Board of Directors (and not the Council of Governors) is the governing body with a duty to:

* Set the strategic direction of the Trust and implement it.
* Manage resources (financial, workforce etc.) to the Trust’s operations
* Manage the Trust ensuring the care and experience of people who use our services remains good and that all issues are addressed in a transparent manner.

**Additional responsibilities for NHS foundations trusts following the amendment of the 2006 Act by the 2012 Act**

**Board meetings:**

* Before each Board meeting, the Board of Directors must send a copy of the agenda to the Council of Governors
* After the meeting, the Board of Directors must as soon as practicable send a copy of the minutes to the Council of Governors

**Annual members’ meetings:**

* The Trust is required through statute to hold an annual meeting of the Trust’s membership. This meeting must be open to members of the public and gives the membership of a foundation trust a role in relation to considering the Trust’s annual report and accounts. This is intended to secure the accountability of governors and directors to the members and to promote transparency about the trust’s performance.
* At least one of the directors must present the Trust’s annual report and accounts, and any report of the auditor on the accounts, to members at this meeting.
* Statute also provides that the membership of the trust, at the annual meeting, must be able to vote on constitutional amendments affecting the role of governors, similar to the scrutiny of other changes by governors. The Act states that where an amendment is made to the Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust) – at least one member of the Council of Governors must attend the next Annual Members’ Meeting and present the amendment, and the Trust must give the members an opportunity to vote on whether they approve the amendment.
  + If more than half of the members voting at the meeting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.
* Finally the legislation clarifies that the existing requirement on the council of governors to hold a general meeting to consider the trust’s annual accounts and report, enables the trust, if it wishes, to combine the annual meeting held by the membership with a general meeting of the council of governors

**Appendix 2 - Council of Governors’ Code of Conduct**

[All governors must sign a declaration to confirm that he or she will abide by this code of conduct.

**1. Introduction**

1.1 The purpose of this code is to provide clear guidance on the standards of conduct and behaviour expected of all governors.

1.2 This code, with the code of conduct for directors and the NHS constitution, forms part of the framework designed to promote the highest possible standards of conduct and behaviour within the foundation trust. The code is intended to operate in conjunction with the constitution, standing orders and NHS Improvement’s Code of Governance.

1.3 The code applies at all times when governors are carrying out the business of the foundation trust or representing the foundation trust.

**2. Principles of Public Life**

2.1 All Council Members will agree to abide by the “Seven Principles of Public Life” which are as follows:

**Selflessness:**

Holders of public office should act solely in terms of the public interest: they should not do so in order to gain financial or other benefits for themselves, their family or their friends.

**Integrity:**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity:**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability**:

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:**

Holders of public office should be as open as possible about all the decisions and actions they take: they should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

**3. Role:**

**Council Members will:**

3.1 Actively support the vision and aims of Oxford Health in developing as a successful NHS Foundation Trust and act in the best interests of the Trust at all times;

3.2 Contribute to the work of the Council of Governors in order for it to fulfil its role as defined in the Trust’s constitution;

3.3 Recognise that the Council of Governors exercises collective decision-making on behalf of all its members’ service users, members, local public and staff;

3.4 Recognise that the Council of Governors has no operational managerial role within Oxford Health and cannot veto a decision of the Board of Directors;

3.5 Attend meetings of the Council of Governors and training and development days, on a regular basis, in order to carry out their role;

3.6 Engage with the wider membership to enhance the role of the Council of Governors;

3.7 Comply with the constitution;

3.8 Support and assist the Accountable Officer of Oxford Health in his/her responsibility to answer to NHSI, commissioners and the public for the performance of the Trust;

**4. Conduct:**

Council Members shall:

4.1 Not expect any privilege arising from being Council Members;

4.2 Value and respect Council Member colleagues, the public, service users, relatives, carers, NHS staff and partners in other agencies;

4.3 Abide by Trust policies relevant to their role as Council Members and in particular those policies relating to working with children and vulnerable adults;

4.4 Conduct themselves in a manner that reflects positively on Oxford Health, acting as an ambassador for the Trust;

4.5 Note that the Oxford Health NHS Foundation Trust is an apolitical organisation and Council Members will not represent any trade union, political party or other organisation (or the views of those organisations). If a Council Member is a member of any of these they must declare this fact;

4.6 Accept responsibility for his or her own actions;

4.7 Behave in a way that does not discriminate against any person because of their race, religion, gender, sexuality, age, physical disability, mental disability, social and economic status or national origin;

* 1. Only visit Oxford Health services in their role as Council Members at the invitation of the Trust;

4.9 Not act in a manner that could bring the Trust into disrepute.

**5. Confidentiality**

5.1 Council Members shall respect the confidentiality of information received in their role as governors and the confidentiality of individual service users, staff and members;

5.2 Council Members shall adhere to the Trust’s confidentiality and data protection policies;

5.3 Governors must be supplied with and comply with the foundation trust’s confidentiality policies and procedures. Governors must not disclose any confidential information, except in gaining access to information to which they are legally entitled, specified lawful circumstances, and must not seek to prevent a person from gaining access to information to which they are legally entitled.

5.4 Nothing said in this code precludes governors from making a protected disclosure within the meaning of the Public Interest Disclosure Act 1998. The Director of Corporate Affairs/Company Secretary should be consulted for guidance.

**6. Dealing with the media**

6.1 Council Members shall not knowingly make or permit, any untrue or misleading statement relating to his or her own duties or the functions of Oxford Health;

6.2 Council Members shall abide by the Trust’s Media Policy;

**7. Corporate Vision and Values**

The Council of Governors will support the Foundation Trust’s Vision and Commitments.

**Vision**

‘Everything we do is to improve the lives of the people and communities we serve and to promote mental health and wellbeing for all.’

We aim to achieve our vision by:

* Working with people as a joint endeavour in pursuit of their recovery and wellbeing, treating them as guests when they are in our services
* Creating world leading research and translating it into innovative clinical practice – as quickly, effectively and efficiently as possible
* Focusing on quality, productivity and flexibility to continually improve our responsiveness to changing context, shifting expectations and increasing challenges
* articulating our understanding of the totality of health and social care and every aspect of life that impacts on people’s health and wellbeing - not necessarily taking responsibility for the whole system – but helping to bring it together and maintain it if that supports the delivery of our objectives
* Continually improving our core expertise in clinical academic innovation and sharing that with the wider system.

**Our commitments**

We will build mutual, respectful relationships with each other and with service users in accordance with our five commitments to:

1. Be caring, kind and polite
2. Be prompt and value your time
3. Take time to listen to you
4. Be honest and direct with you
5. Do what I say I am going to do.

**8. Directors’ duties and liabilities and the Council of Governors**

8.1 The general duties of the Council of Governors are to hold the non-executive directors individually and collectively to account for the performance of the board of directors and represent the interests of the members of the foundation trust as a whole and the interests of the public.

8.2 The role is set out in detail in the constitution, standing orders, the Regulator’s Code of Governance and is further addressed in the guidance for governors. In carrying out its work the council of governors needs to take account of and respect the statutory duties and liabilities of the board of directors and individual directors.

**9. Register of Interests / Conflicts of Interest**

9.1 Governors are required to register all relevant interests in the foundation trust’s register of interests in accordance with the provisions of the constitution. It is the responsibility of each governor to provide an update to their register entry if their interests change. A pro forma is available from the Director of Corporate Affairs/Company Secretary.

9.2 Failure to register a relevant interest in a timely manner may constitute a breach of this code.

9.3 Governors have a duty to avoid a situation in which they have a direct or indirect interest that conflicts or may conflict with the interests of the foundation trust. Governors must not accept a benefit from a third party by reason of being a governor or doing (or not doing) anything in that capacity. Governors must not offer a benefit to a third party by reason of being a governor for doing (or not doing) anything in that capacity.

9.4 Governors must declare the nature and extent of any interest at the earliest opportunity. If such a declaration proves to be, or becomes, inaccurate or incomplete, a further declaration must be made. It is then for the chair to advise whether it is necessary for the governor to refrain from participating in discussion of the item or withdraw from the meeting. Failure to comply is likely to constitute a breach of this code.

**10. Fit and Proper Person**

10.1 It is a condition of the trust’s licence that each governor serving on the council of governors is a “fit and proper person” defined in the trusts’ licence.[[1]](#footnote-1) (See also addendum for full definition)

10.2 Governors must certify on appointment, and each year that they are/remain a fit and proper person. If circumstances change so that a governor can no longer be regarded as a fit and proper person or if it comes to light that a governor is not a fit and proper person they will be suspended from being a governor with immediate effect pending confirmation and any appeal. Where it is confirmed that a governor is no longer a fit and proper person their membership of the Council of Governors will be terminated.

**11. Meetings**

11.1 Governors have a responsibility to attend Council of Governors meetings. When it is not possible apologies should be submitted to the Director of Corporate Affairs/Company Secretary in advance of the meeting. Persistent absence from Council of Governors meetings without good reason may be grounds for removal from the Council of Governors.

**12. Personal Conduct.**

12.1 Governors are expected to conduct themselves in a manner that reflects positively on the foundation trust and not to conduct themselves in a manner that could reasonably be regarded as bringing their office or the foundation trust into disrepute.

12.2 Specifically governors must treat each other, directors and trust staff with respect; not breach the equality enactments and not bully any person. Governors must not seek to use their position improperly to confer an advantage or disadvantage on any person and must comply with the foundation trust’s rules on the use of its resources.

12.3 Finally governors must have regard to advice provided by the chair and Director of Corporate Affairs/Company Secretary pursuant to their statutory duties.

**13. Training & Development.**

13.1 Oxford Health is committed to providing appropriate training and development opportunities for governors to enable them to carry out their role effectively. Governors are expected to undertake to participate in training and development opportunities that have been identified as appropriate for them. To that end governors will be expected to participate in the appraisal process and any skills audit carried out by the trust.

**14. Undertaking & Compliance.**

14.1 Governors are required to give an undertaking that they will comply with the provisions of this code. Failure to comply with the code may result in action in accordance with agreed procedure.

**15. Interpretation & Concerns.**

15.1 Questions and concerns about the application of the code should be raised with the Director of Corporate Affairs/Company Secretary. At meetings the chair will be the final arbiter of interpretation of the code. Appeals will be heard by the Council of Governors initially and (with their approval) by reference to NHSI’s panel.

**16. Review and Revision of the Code.**

16.1 This code has been agreed by the Council of Governors .The Director of Corporate Affairs/Company Secretary will lead annual regular review of the code. It is for governors to agree to any amendments or revision to the code.]

**Addendum:**

**Fit and Proper Person definition:**

**Condition G4 – Fit and proper persons as governors and Directors (also applicable to those performing equivalent or similar functions)**

1. The Licensee shall ensure that no person who is an unfit person may become or continue as a governor, except with the approval in writing of NHSI.
2. The Licensee shall not appoint as a Director any person who is an unfit person, except with the approval in writing of NHSI.
3. The Licensee shall ensure that its contracts of service with its Directors contain a provision permitting summary termination in the event of a Director being or becoming an unfit person. The Licensee shall ensure that it enforces that provision promptly upon discovering any Director to be an unfit person, except with the approval in writing of NHSI.
4. If NHSI has given approval in relation to any person in accordance with paragraph 1, 2, or 3 of this condition the Licensee shall notify NHSI promptly in writing of any material change in the role required of or performed by that person.

**5. In this Condition an unfit person[[2]](#footnote-2) is:**

(a) An individual;

(i) Who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged; or

(ii) Who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it; or

(iii) Who within the preceding five years has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him; or

(iv) Who is subject to an unexpired disqualification order made under the Company Directors’ Disqualification Act 1986

1. See addendum at end of document [↑](#footnote-ref-1)
2. Consists of but not restricted to. [↑](#footnote-ref-2)