

7.12 Suspension and disqualification from office

7.12.1 Where a Staff Governor has been:

7.12.1.1 made the subject of a written warning or a period of suspension in excess of 28 days; or

7.12.1.2 absent from his post as an employee of the Trust for a continuous period of not less than four months and no reasonable cause (in the opinion of the Council of Governors acting by simple majority) has been given for absence;

his term of office as Governor may be suspended by the Council of Governors) for such period of time as the Council of Governors deems fit and so as to enable, if necessary, an investigation to be carried out to determine whether or not the tenure of that Staff Governor should then be terminated. The Staff Governor in question may submit reasons to the Council of Governors as to why he should still be eligible to continue as a Staff Governor and the Council of Governors shall decide whether to terminate the Governor's term of office and such determination of the Council of Governors shall be final.

7.12.2 An individual is immediately disqualified from becoming or continuing to hold office as a Governor if he:

7.12.3.1 has been adjudged bankrupt or his estate has been sequestrated and in either case he has not been discharged;

7.12.3.2 is a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986);

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

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

7.12.3.5 has within the preceding three years been dismissed (including, but not limited to, by reason of redundancy) by the Trust;

7.12.3.6 has within the preceding two years been dismissed from any paid employment with a Health Service Body otherwise than by reason of redundancy, sickness or dismissal that was found by an

Employment Tribunal or competent court (or on appeal in either case) to be unfair, wrongful or discriminatory;

- 7.12.3.7 is under 16 years of age;
 - 7.12.3.8 is an individual whose tenure of office as the Chairman, governor or as a member or director of a Health Service Body has been terminated on the grounds that his appointment is not in the interest of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
 - 7.12.3.9 is an individual who is a governor of another NHS foundation trust;
 - 7.12.3.10 is the spouse, partner, parent or child of a member of the Board of Directors of the Trust;
 - 7.12.3.11 has had his name removed from any list prepared pursuant to paragraph 14 of the National Health Service (Performers List) Regulations 2013 or section 151 of the 2006 Act (or similar provision elsewhere) and has not subsequently has his name included in such a list;
 - 7.12.3.12 is incapable by reason of mental disorder, illness or injury of managing and administering his property and affairs;
 - 7.12.3.13 is registered as a sex offender pursuant to Part 1 of the Sex Offenders Act 1997;
 - 7.12.3.14 has been identified and given notice in writing by the Chief Executive to the effect that he is a habitual or repetitive complainant in respect of the Trust, if the Council of Governors decide (by a majority of the other Governors) to disqualification/termination;
 - 7.12.3.15 is a member of a local authority's Overview and Scrutiny Committee covering health matters;
 - 7.12.3.16 is a member of the Trust's Patients' Forum;
 - 7.12.3.17 is a member of Healthwatch; or
 - 7.12.3.18 has failed to confirm that he will abide by the Code of Conduct for Governors as set out in Annex 7 or as may otherwise be adopted by the Trust from time to time;
 - 7.12.3.19 has contravened any other provision of this Constitution.
- 7.12.4 An individual is disqualified from becoming or continuing to hold office as a Governor if NHS Improvement has exercised its powers to remove that person as a Governor or has suspended him from office or has disqualified

him from holding office as Governor for a specified period or NHS Improvement has exercised any of those powers in relation to the person concerned at any other time whether in relation to the Trust or some other NHS foundation trust.

- 7.12.5 An individual is disqualified from becoming or continuing to hold office as a Public Governor if:
- 7.12.4.1 he ceases to be a Member of the Public Constituency (or Public Constituency Class) for which he was elected; or
 - 7.12.4.2 he is eligible to be a Member of the Staff Constituency.
- 7.12.6 An individual is disqualified from becoming or continuing to hold office as a Staff Governor if he:
- 7.12.6.1 ceases to be a Member of the Staff Constituency (or relevant Staff Class); or
 - 7.12.6.2 is employed by the Trust on a temporary contract which contract is or was identified on the face of it as a temporary contract.
- 7.12.7 An individual is disqualified from becoming or continuing to hold office as an Appointed Governor if the relevant appointing organisation withdraws its appointment of him.
- 7.12.8 If an Elected or Appointed Governor ceases to be eligible to hold such office because grounds for disqualification exist pursuant to paragraph 7.12 (other than under paragraph 7.12.1 and paragraph 7.11.2), he shall immediately notify the Director of Corporate Affairs and Company Secretary in writing of the circumstances.
- 7.12.9 If the Trust is on notice that a Governor may no longer be eligible to be a Governor, the Trust shall carry out such reasonable enquiries as it considers necessary to establish if this is the case and shall invite the Governor concerned to comment on its findings (within 14 days) and following receipt of any comments or expiry of that 14 day period (whichever occurs first) the Council of Governors shall decide whether such Governor's term of office should be terminated.