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**Report to the Annual Members’ Meeting**

**& Annual General Meeting (AMM & AGM)**

**of Oxford Health NHS Foundation Trust**

22 September 2021

Approval of Changes to the Constitution

 Lead Governor’s report

**Background**

The Constitution represents the constitution of Oxford Health NHS Foundation Trust and sets out the powers and functions of the Trust and how its governance operates.

Changes to the Trust’s constitution can take effect only if the amendments are approved by both: i) more than half of the members of the Board of Directors of the trust voting; and ii) more than half of the members of the Council of Governors of the Trust voting.

Where there have been amendments to the Constitution which relate to the powers, duties or roles of the Council of Governors, at least one governor must attend the next annual members’ meeting and present the amendment to members. Members have the right to vote on and veto these types of constitutional amendments.

The purpose of this report is to present to the Members, **for approval**, recent amendments to the Constitution, which were approved at a meeting of the Council of Governors on 18 November 2020 and in a meeting of the Board on 27 January 2021.

**Amendments to the Constitution**

A number of substantive changes to the Constitution were approved by the Council of Governors on 18 November 2020, and the Board on 27 January 2021. These changes are detailed in subsections 1 – 5 below.

Various desirable housekeeping changes have also been made, e.g. correcting typos, updates to reflect changes to senior managers’ job titles and committee names, paragraph number sequencing, and formatting. These do not require the approval of the Members.

The updated Constitution (clean copy) can be found at [Appendix 1](https://www.oxfordhealth.nhs.uk/wp-content/uploads/2021/09/AGM-AMM_Appendix-1_Lead-Governors-Report_Constitution_as-amended-Sept-2021-clean-copy-2.docx) to this report. [Appendix 1A](https://www.oxfordhealth.nhs.uk/wp-content/uploads/2021/09/AGM-AMM_Appendix-1A_Lead-Governors-Report_Constitution-changes-highlighted.docx) is the new constitution with substantive changes highlighted.

***1. Changes to the composition of the Council of Governors***

The composition Council of Governors has changed, increasing the number of service user governors (from 7 to 11) and proportionately reducing the number of public governors (from 12 to 8). The relevant part of the Constitution now reads:

*7.1.1 The Trust shall have a Council of Governors which shall consist of Elected Governors and Appointed Governors (as set out in paragraph 7.1.2).*

*7.1.2 The composition of the Council of Governors shall be:*

 *7.1.2.1 twelve ~~(12)~~ (8) Public Governors representing the Public Constituency Classes as set out in Annex 1;*

 *7.1.2.2 nine (9) ~~or ten (10)~~ Staff Governors representing the Staff Classes as set out in Annex 2;*

 *7.1.2.3 seven ~~(7)~~ (11) Patient Governors representing the Patient Classes as set out in Annex 3;*

 *7.1.2.4 one (1) CCG Governor;*

 *7.1.2.5 two (2) Local Authority Governors; and*

 *7.1.2.6 five (5) Other Partnership Governors.*

***2. Inclusion of a defined term for the position of Lead Governor***

A defined term for the position of Lead Governor has been added. The relevant part of the constitution now reads (new addition highlighted):

*7.1.3 The Council of Governors shall nominate a Governor to be the Trust’s Lead Governor for up to 3 years as aligned with tenures and as determined by the Council*

***3. Removal of Governor disqualification criteria***

Two historic disqualifying criteria for governors have been removed.The following disqualifying criteria for governors have been removed entirely:

*7.12.3.9 is an individual who is a governor of another NHS foundation trust*

*7.12.3.16 is a member of the Trust’s Patients’ Forum*

***4. Removal of Director disqualification criteria***

An historic disqualifying criterion for non-executive directors has been removed.The following disqualifying criteria for NEDs has been removed entirely:

*8.8.1.8 is an executive or non-executive director of another NHS Foundation Trust, or an executive director, non-executive director, chairman, chief executive officer of another Health Service Body;*

***5. Significant transactions***

Specific reference has been added to the addendum to Trust's Engagement Policy, which describes the matters which will be deemed to be 'significant transactions' (requiring the Trust to seek approval for the transaction from the Council of Governors).

***16. Mergers, Significant Transactions and other transaction requirements***

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

*16.2 The Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors voting approve entering into the transaction.*

*16.3 ~~The Constitution does not contain any descriptions of the term ‘significant transaction’ for the purposes of section 51A of the 2006 Act (Significant Transactions).~~ The Engagement Policy includes an addendum which describes those matters which will be deemed to be Significant Transactions for the purposes of section 51A of the 2006 Act (significant Transactions).*

**Updates to the Engagement Policy**

The Engagement Policy addresses interaction between the Board of Directors and the Council of Governors. Updates made to the Policy include:

1. An addendum has been added to describe those matters which will be deemed to be 'significant transactions’. The Trust is required to seek the approval of the Council of Governor for transactions which are significant;
2. Various desirable housekeeping changes, e.g. correcting typos, updates to reflect changes to senior managers’ job titles and committee names, paragraph number sequencing, and formatting. These do not require the approval of the Members.

The addition of the Addendum and its substantive content were approved by the Council of Governors in November 2020, and the Board in January 2021.

The Engagement Policy, with new addendum can be found at [Appendix 2](https://www.oxfordhealth.nhs.uk/wp-content/uploads/2021/09/AGM-AMM_Appendix-2_Lead-Governors-Report_Engagement-Policy-Significant-Transactions-addendum.docx) to this report.

**Recommendation**

The Members are invited to approve the above changes to the Constitution and Engagement Policy.

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