

## Council of Governors: Summary Sheet

5 May 2016  
Item No 11

<b>Title of Paper:</b>	Nomination and Remuneration Committee Terms of Reference			
<b>Presented By:</b>	Prof. Alan Walker, Trust Board Chair			
<b>Action Required:</b>	<b>For Information</b>	<input type="checkbox"/>	<b>For Ratification</b>	<input checked="" type="checkbox"/>
	<b>For Feedback</b>	<input type="checkbox"/>	<b>Vote required</b>	<input type="checkbox"/>
			<b>For a decision</b>	<input type="checkbox"/>
			<b>For Receipt</b>	<input type="checkbox"/>

To which duty does this refer:

Holding non-executive directors individually and collectively to account for the performance of the Board	<input type="checkbox"/>
Appointment, removal and deciding the terms of office of the Chair and non-executive directors	<input type="checkbox"/>
Determining the remuneration of the Chair and non-executive directors	<input type="checkbox"/>
Appointing or removing the trust's auditor	<input type="checkbox"/>
Approving or not the appointment of the trust's chief executive	<input type="checkbox"/>
Receiving the annual report and accounts and auditor's report	<input type="checkbox"/>
Representing the interests of members and the public	<input type="checkbox"/>
Approving or not increases to non-NHS income of more than 5% of total income	<input type="checkbox"/>
Approving or not acquisitions, mergers, separations and dissolutions	<input type="checkbox"/>
Jointly approving changes to the trust's constitution with the Board	<input type="checkbox"/>
Expressing a view on the Trust's forward plans	<input type="checkbox"/>
Consideration on the use of income from the provision of goods and services from sources other than the NHS in England	<input type="checkbox"/>
Monitoring the activities of the Trust to ensure that they are being conducted in a manner consistent with its terms of authorisation and the constitution.	<input type="checkbox"/>
Monitoring the Trust's performance against its targets and strategic aims	<input type="checkbox"/>

### How does this item support the functioning of the Council of Governors?

Council of Governors have established a Nomination and Remuneration Committee to oversee the recruitment, remuneration and cessation arrangements for the Trust Board Chair and Non-Executive Directors.

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<b>Date:</b>	27 April 2016

## SUMMARY REPORT

**Report to:** Council of Governors  
**Date:** 5 May 2016  
**Subject:** Nomination and Remuneration Committee Terms of Reference  
**From:** Prof. Alan Walker, Trust Board Chair

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### 1. Purpose

To share a copy of the updated Terms of Reference for the Nomination and Remuneration Committee and ask Council of Governors to approve.

### 2. Summary

Council of Governors last approved the Terms of Reference for the Nomination and Remuneration Committee (NRC) in November 2010. It is good practice to review Terms of Reference on a regular basis.

A draft set of Terms of Reference were presented to NRC in February 2016 for review. This draft recommended changes in relation to the establishment of an NRC panel, a review of the role of the Trust Board Chair and Senior Independent Director (SID) at NRC, the role of NRC in the appraisal process for the Trust Board Chair and Non-Executive Directors (NEDs) and quoracy arrangements. Some recommendations were agreed, however, there were also concerns expressed by NRC members about some of the proposed revisions. A further meeting of NRC Governor members was convened for them to make further proposed changes. The attached document is the one agreed by NRC members at that meeting.

Council of Governors should be advised that further changes will need to be made to the NRC Terms of Reference as they refer to an agreement between the Trust and Sheffield City Council, known as a Section 75 agreement, which is due to end in June 2016. It should also be noted that, following an audit report on Trust governance, a template for the Terms of Reference of all Trust committees is being finalised and the NRC Terms of Reference will be reviewed as part of this process. This will provide the opportunity for NRC and Council of Governors to complete a final review to ensure that the Terms of Reference for NRC are fit for purpose. This review will take place with NRC in June / July 2016 and will be presented to COG at the July or September 2016 meeting.

### 3. Next Steps

The further review will be scheduled into the forward planner for NRC and COG.

### 4. Required Actions

Council of Governors are asked to note the summary above and approve the NRC Terms of Reference on the recommendation of NRC.

### 5. Monitoring Arrangements

As detailed above a further review will be scheduled in June / July 2016 by NRC with updated Terms of Reference being shared with COG at either the July or September 2016 meetings.

### 6. Contact Details

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**Sheffield Health and Social Care NHS Foundation Trust  
The Council of Governors' Nominations and Remuneration Committee**

**Terms of Reference**

**1. Establishment of Committee**

- 1.1. Further to the provisions of Standing Order 10.2 of the Council of Governors' (COG) Standing Orders (the 'Standing Orders'), the COG has established a committee to be known as the Nominations and Remuneration Committee (the 'Committee').

**2. Functions of the Committee**

- 2.1. The functions of the Committee shall be as follows:

- 2.1.1 To ensure that there is a succession plan for the Chair and the other Non-executive Directors of the Trust, taking into account their terms of office and the future challenges, risks and opportunities faced by the Trust;
- 2.1.2 Having regard to the succession plan and the challenges, risks and opportunities faced by the Trust, to review at least annually the balance of skills, knowledge and experience of the Non-executive Directors of the Trust;
- 2.1.3 As required by the succession plan or in response to unplanned changes in the Non-executive Director membership of the Board, to agree with the COG and in consultation with the Board of Directors (the 'Board'), the criteria and the process for the selection of candidates for office as Chair or another Non-executive Director of the Trust;
- 2.1.4 To make recommendations to the Council as to potential candidates for appointment as Trust Chair or other Non-executive Director, as the case may be. As part of the process for selection of candidates for office as Chair or another Non-executive Director:
- 2.1.4.1 in consultation with the Board, to review and recommend to the COG the role description and person specification, the remuneration, and the other terms and conditions of office for the Chair or Non-executive Director (as the case may be);
- 2.1.4.2 to appoint a panel comprising some of the Committee's members and others as considered appropriate (subject to the majority of panel members being governors), to short-list and interview candidates and to undertake other relevant duties as the Committee may decide as part of the process;
- 2.1.4.3 To consider recommendations from the panel and to make recommendations to the COG as to the proposed candidate for appointment as Trust Chair as other Non-executive Director, as the case may be;
- 2.1.5 To monitor the performance of the Trust Chair and other Non-executive Directors on a regular and systematic basis and make reports on such monitoring to the Council from time to time when requested by the Council to do so or when, in the opinion of the Committee, it is proper to bring the results of such monitoring to the attention of the Council.

2.1.6 At appropriate intervals agreed by the COG and in consultation with the Board, but not less than every three years or when recruiting a Chair or Non-executive Director, to consider and make recommendations to the COG on the remuneration, allowances and other terms and conditions of office of the Trust Chair or other Non-executive Directors.

### **3. Duty to give due regard to views of the Board**

3.1 In carrying out its functions, the Committee shall:

3.1.1 In relation to the functions referred to in 2.1 above, give due regard to the views expressed by the Board following the consultation which the Committee will have carried out with the Board;

3.1.2 In relation to the functions referred to in sections 2.1.1, 2.1.2, 2.1.3 and 2.1.4 above, give due regard to the Board's proposals that at least one Non-executive Director with knowledge and experience in health and social care of a local authority and current membership of a local authority be appointed;

3.1.3 In relation to the functions referred to in 2.1.4 above, give due regard to the right which Sheffield City Council (the 'Local Authority') may have under the terms of an agreement it has entered into with the Trust pursuant to Section 75 of the NHS Act, 2006 to nominate one of its members with experience in health and social care for appointment as a Non-executive Director of the Trust.

3.2 In the event of the Local Authority nominating any one of its members as specified in section 3.1.2 above, the Committee shall recommend to COG that such a person be appointed as a Non-executive Director of the Trust.

### **4. Membership**

4.1. The Committee's membership shall be as follows:

4.1.1 The Trust Chair or, in situations where the Trust Chair is conflicted as described in Section 6 or unable to attend, the Senior Independent Director;

4.1.2 the Lead Governor (referred to in the Constitution as the Reserve Chair);

4.1.3 one governor from the 'Service User Class' of the 'Service Users' and Carers Constituency' (as defined in the Trust's Constitution (the 'Constitution'));

4.1.4 one governor from the 'Carer Class' of the 'Service Users' and Carers Constituency' (as defined in the Constitution);

4.1.5 two governors from the 'Public Constituency' (as defined in the Constitution);

4.1.6 one governor from the 'Staff Constituency' (as defined in the Constitution);

4.1.7 one governor from the 'Young Service User or Carer Class' (as defined in Annex 3 to the Constitution); and

4.1.8 one Appointed Governor (as defined in the Constitution).

## **5. The Committee's power to co-opt new members**

- 5.1. In the event of a vacancy occurring in the membership of the Committee, the remaining members of the Committee may co-opt a member of COG to fill such a vacancy.
- 5.2. In filling any vacancy that may occur in its membership, the Committee shall ensure that the configuration of its membership is restored to meet the criterion set out in section 4.1 above.
- 5.3. Nothing contained in the provisions of this section 5 shall prejudice the powers reserved to COG contained in section 10.1 below.

## **6. Chair of the Committee**

- 6.1. The Trust Chair shall preside over the meetings of the Committee except in cases where the whole or part of a Committee meeting is due to consider:
  - 6.1.1 the appointment of the Trust Chair, or
  - 6.1.2 the terms and conditions of appointment of the Trust Chair, or
  - 6.1.3 the appraisal of the Trust Chair's performance, or
  - 6.1.4 any other matters where there would be a conflict of interest on the part of the Trust Chair if he or she were to preside over part or the whole of the Committee's meetings at which such matters are due to be considered.
- 6.2. In the absence of the Trust Chair or where, for the reasons stated in section 6.1 above, it is not proper for the Trust Chair to preside over any part or the whole of the Committee's meetings, then the Lead Governor shall preside over part or the whole of such meetings.

## **7. Secretary of the Committee**

- 7.1 The Board Secretary shall be the secretary to the Committee or a substitute agreed by the Committee Chair.

## **8. Attendance of Non-Members of the Committee at Committee meetings**

- 8.1. The Trust's Chief Executive will normally be invited to attend the Committee's meetings but he/she shall not be a member of the Committee and shall have no vote on any matter considered by it.
- 8.2 The Committee may invite any of the following persons to its meetings for the purpose of seeking their advice and assistance in the discharge of the Committee's functions, namely:
  - 8.2.1 the Trust's Director of Human Resources;
  - 8.2.2 any other person who, in the Committee's opinion, could provide it with the advice and assistance that it requires to enable the Committee to discharge its functions (including persons referred to in 13 below).
- 8.3. The persons referred to in 8.2 shall not be members of the Committee and shall have no vote on any matter considered by it.

## **9. Tenure of Office**

- 9.1. Subject to the provisions of sections 9.2, 9.3, 9.4, 10.1.1, and 10.1.2 below, a member of the Committee may serve in the Committee for the entire duration of their tenure of office as a member of COG.
- 9.2. A member of the Committee may resign from their membership of the Committee by giving notice in writing to the Committee secretary.
- 9.3. The Committee may recommend to COG the removal of any one of its members from the Committee where such a member fails, without reasonable excuse, to attend at least 4 successive Committee meetings.
- 9.4. Without prejudice to the provisions of section 9.1 above, the Committee shall (in three yearly intervals) give due regard to the need to refresh its membership.
- 9.5. The Committee shall make reports to COG on the steps it has taken to implement the provisions of section 9.4 above.

## **10. Powers reserved to COG**

- 10.1 The COG reserves the power to:
  - 10.1.1 reconstitute the entire membership of the Committee at any time;
  - 10.1.2 remove any member of the Committee;
  - 10.1.3 fill in any vacancy that may arise in the membership of the Committee;
  - 10.1.4 revise these terms of reference at any time;
  - 10.1.5 require the Committee to make reports to it on any matter relating to the discharge of the Committee's functions. In exercising this power, COG shall ensure that appropriate steps are taken to maintain the integrity of confidential information and that the disclosure of such information to COG is made in the confidential session of COG's meeting.

## **11. Quorum**

- 11.1 Four Committee members shall form the quorum necessary for the transaction of business at any meeting of the Committee.
- 11.2 Where the Committee proceeds to hold a meeting without the necessary quorum specified in section 11.1 above, any decisions made by the Committee as such a meeting shall not, for that reason only, be invalid but shall, instead, be subject to ratification by the Council.
- 11.3 Every member of the Committee shall be entitled to one vote on any question to be determined by voting. In the event of there being equal votes cast, then the person presiding at such a Committee meeting shall have a casting vote.

## **12. Meetings of the Committee**

- 12.1. The Committee shall meet at least once a year but as often as is necessary to discharge its functions.

- 12.2. Subject to 12.3 below, meetings of the Committee shall, at the request of the Trust Chair, be convened by the secretary to the Committee by notice in writing to all Committee members.
- 12.3. In the absence of the Trust Chair or in cases where the matters to be discussed at a proposed Committee meeting mainly relate to matters on which the Trust Chair would have a conflict of interest if he or she were to attend any part or the whole of such a meeting, then the Lead Governor may, in such cases, request the secretary to the Committee to convene the meeting of the Committee.

### **13. Seeking External Professional Advice**

- 13.1 The Committee shall be at liberty to seek, at the Trust's expense, such external professional advice and services (including the procuring of any training that may be required by any of its members) in order to enable the Committee to carry out its functions. No external professional advisor appointed by or for the Committee shall be a member of, or have a vote on any matter considered by the Committee.

### **14. Annual Report Disclosures**

- 14.1 All Committee members shall co-operate with any officer of the Trust responsible for preparing the Annual Report by providing them with such relevant information relating to the affairs of the Committee as they may require in order to ensure compliance by the Trust with any regulatory requirements relating to the preparation of the Annual Report.

### **15. Confidentiality**

- 15.1. Without prejudice to the provisions of section 10.1.5 above, every Committee member shall maintain the confidentiality of all such information which the Committee will have determined to be confidential in nature. In the absence of such determination by the Committee, each Committee member shall be expected to exercise their reasonable judgment (and take into account any existing Codes of Conduct for Foundation Trust Governors) in assessing the nature of information that they receive as a Committee member in determining whether or not to treat such information as confidential.

### **16. Foundation Trust Regulation, Governance, the Constitution and Standing Orders**

- 16.1. Having taken advice from others, including the Board Secretary where necessary, the Committee will endeavour at all times to comply with relevant law and current good practice.
- 16.2 These terms of reference shall, at all times, be subject to the provisions of the Constitution and/or the Standing Orders. In the event of there being any inconsistency between the provisions of these terms of reference on the one hand, and/or the provisions of the Constitution and/or the Standing Orders on the other hand, the provisions of the Constitution and/or the Standing Orders shall prevail.

*Revised February 2016*