

COUNCIL OF GOVERNORS' MEETING
8th July 2014
SUMMARY SHEET

Council of Governors 8 th July 2014 Item 10(c)

TITLE OF PAPER	Terms and Conditions of Appointment of Non-Executive Director
TO BE PRESENTED BY	Professor Alan Walker, Chair
ACTION REQUIRED	<ul style="list-style-type: none"> ▪ For the Council to approve the attached terms and conditions of appointment of a Non-Executive Director of the Trust

OUTCOME	<ul style="list-style-type: none"> ▪ The approved terms and conditions will form the basis for the Council's appointment of a Non-Executive Director of the Trust
TIMETABLE FOR DECISION	<ul style="list-style-type: none"> ▪ The Council is requested to make its decision at its meeting of 8th July 2014
LINKS TO OTHER KEY REPORTS / DECISIONS	<ul style="list-style-type: none"> ▪ The appointment of candidate to be recommended (in due course) by the Nominations and Remuneration Committee to the Council to be the Trust's Non-Executive Directors
LINKS TO OTHER RELEVANT FRAMEWORKS BAF, RISK, OUTCOMES ETC	<ul style="list-style-type: none"> ▪ Principle 3 of the NHS Constitution expresses the NHS' aspiration to the highest standards of excellence in the leadership and management of its organisations <p>HSE <input type="checkbox"/> MH Act <input type="checkbox"/> Equality <input type="checkbox"/> BME <input type="checkbox"/> Disability Legislation <input type="checkbox"/> NHS Constitution: Staff Rights <input type="checkbox"/> Patients' Rights <input type="checkbox"/> Public's Rights <input type="checkbox"/> Principles <input checked="" type="checkbox"/></p>
IMPLICATIONS FOR SERVICE DELIVERY AND FINANCIAL IMPACT	None identified
CONSIDERATION OF LEGAL ISSUES	The Council will be acting in exercise of its powers under paragraph 26.1 of the Trust's Constitution

Author of Report	Sam Stoddart
Designation	Membership Manager
Date of Report	13 th June 2014

SUMMARY REPORT

Report to: The Council of Governors

Date: 8th July 2014

Subject: Terms and Conditions of Appointment of a Non-Executive Director

From: Sam Stoddart, Membership Manager

1. Purpose

The Nominations and Remuneration Committee proposes that the attached terms and conditions of appointment of a Non-Executive Director be approved by the Council of Governors in relation to the candidate that the Committee will be recruiting.

2. Summary

The Committee has set in train the process of recruiting one Non-Executive Director of the Trust. The Committee agreed to recommend to the Council that there should be no increase in the level of remuneration of Non-Executive Directors which currently stands at £12,000 per annum. With this in mind, the Committee also agreed to recommend to the Council that the terms form the basis for appointment of the candidate that it will, in due course, recommend to the Council for appointment as the Trust's Non-Executive Director.

The terms are substantially the same as those which the Council approved in relation to Chair and Non-Executive Appointments since 2008. Independent legal advice was sought in 2010 on the soundness of the terms and conditions of appointment in previous years. The advice provided sufficient assurance to the Company Secretary, the Committee and the Council, that the Council could proceed to approve those terms and conditions.

Since the terms are not materially, other than the inclusion of additional exclusion criteria in line with the requirements of the Trust's Provider Licence, the Committee is confident that they provide a sound basis upon which the Council should appoint the successful candidates to be recommended to it by the Committee to be the Trust's Non-Executive Director. At its meeting held on 29th April 2014, the Committee agreed to recommend the terms for approval by the Council.

3. Next Steps

The Committee requests the Council to:

- Approve the terms as the basis for appointment of the candidate whom the Committee will, in due course, recommend to the Council to be a Non-Executive Director of the Trust.

4. Required Actions

- The Council is requested to make the decision referred to in 3 above in exercise of its powers to do so under paragraph 26.1 of the Trust's Constitution.

5. Monitoring Arrangements

The Council's decision will be formally noted in the minutes of its meeting.

6. Contact Details

For further information, please contact:

- Sam Stoddart, Membership Manager on 0114 271 8825

Terms and Conditions of Appointment for a Non-Executive Director

This document sets out the terms and conditions under which your appointment has been made to the office of Non-Executive Director of the Sheffield Health and Social Care NHS Foundation Trust (the “Trust”) for the period commencing on [] in accordance with the Constitution of the Trust (including any of the Standing Orders annexed to the Trust’s Constitution) (together, referred to as the “Constitution”).

It is important that you read this document carefully and contact the Foundation Trust Company Secretary should you have any queries.

These terms and conditions of your appointment will be subject to review by the Council of Governors at such times and in such manner as the Council deems fit.

1. Basis for Appointment

The Trust is established under the provisions of the National Health Service Act, 2006. A Non-Executive Director is appointed as an office-holder under the terms of the Trust’s Constitution. Your appointment does not create any contract of service or contract for services between yourself and the Trust. These terms and conditions of your appointment and tenure of office are subject to the provisions of the Trust’s Constitution. In the event of any contradiction between these terms and conditions of your appointment and the provisions of the Constitution, the provisions of the Constitution shall prevail at all times.

2. Employment Law

As an office-holder, you are neither an employee nor a worker for the purposes of determining any common law or statutory rights. This appointment does not create any statutory rights within the jurisdiction of the Employment Tribunal. Neither is there any entitlement for compensation for loss of this office.

3. Reappointment

Your eligibility for re-appointment (if at all) at the end of your period of office shall be subject to the provisions of the Constitution.

4. Termination of Appointment

Your appointment may be terminated in accordance with the provisions of the Constitution. You may resign by giving notice in writing to the Foundation Trust Company Secretary. Your appointment may be terminated by the Council of Governors on any of the following grounds:

- a) That the Council of Governors is of the opinion that it is not in the interest of the health service that you should continue to hold office;
- b) Your non-attendance at three (3) meetings of the Board of Directors within a period of twelve (12) calendar months;

- c) Your failure to comply properly with the requirements of the Constitution with regard to pecuniary interests in matters under discussion at meetings of the Board of Directors or Council of Governors (e.g. failure to disclose such an interest);
- d) Disqualification from membership of the Board of Directors.

The following list provides examples of matters which will disqualify you from becoming or continuing as a member of the Board of Directors. You may be disqualified if:

- You have been adjudged bankrupt or your estate has been sequestrated and (in either case) you have not been discharged;
- You have made a composition or arrangement with or granted a trust deed for your creditors and have not been discharged in respect of it;
- You have within the preceding five years been convicted of any offence and if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was thereby imposed on you;
- You have been removed from membership of a professional body or from a list of registered medical, dental, nursing or health care practitioners as a result of disciplinary action or any conclusion that continued inclusion of your name on any such list or membership of any such professional body would be prejudicial to the efficiency of the services to which the professional body or list relates and you have not subsequently been re-instated to membership or such a list;
- You have been dismissed within the preceding 2 years, otherwise than by reason of redundancy or retirement, from any paid employment with a health service body;
- You become a member of the Council of Governors;
- Monitor (the Independent Regulator of NHS Foundation Trusts) has exercised its powers to remove you as a Director of the Trust or has disqualified you from holding office as a Director of the Trust or of any other Foundation Trust for a specified period;
- You are otherwise disqualified by law from holding the office of non-executive director of an NHS Foundation Trust.
- You are the subject of an unexpired disqualification order made under the Company Directors' Disqualification Act 1986; or
- You are a body corporate, or a body corporate with a parent body corporate:
 - (i) where one or more of the Directors of the body corporate or of its parent body corporate is an unfit person under the provisions of sub-paragraph (a) of this paragraph, or
 - (ii) in relation to which a voluntary arrangement is proposed under section 1 of the Insolvency Act 1986, or
 - (iii) which has a receiver (including an administrative receiver within the meaning of section 29(2) of the 1986 Act) appointed for the whole or any material part of its assets or undertaking, or
 - (iv) which has an administrator appointed to manage its affairs, business and property in accordance with Schedule B1 to the 1986 Act, or
 - (v) which passes any resolution for winding up, or

If you are disqualified from becoming or continuing as a Director of the Trust on any of the grounds set out in the bullet points above, you shall forthwith resign from your position as Non-Executive Director of the Trust or if you decline or fail to do so, you shall be removed forthwith by the Council of Governors in accordance with the Trust's Constitution.

acted honestly and in good faith (save where you have acted recklessly). Any costs arising in this way will be met by the Trust.

12. Criminal Records Bureau

The Trust retains the right to undertake additional Criminal Records Bureau disclosure checks from time to time, as necessary. You are obliged to report to the Foundation Trust Company Secretary any matters in which you are involved and which are likely to be the subject of a police inquiry during your term of office.

13. Confidentiality

You shall not disclose a matter dealt with by or brought before any committee of the Board of Directors (“Committee”) without its permission until the Committee shall have reported to the Board of Directors or shall otherwise have concluded its dealings on that matter.

You shall not disclose to any third party any matter reported to the Board of Directors or otherwise dealt with by any Committee, notwithstanding that the matter has been reported or action has been concluded, if the Board of Directors or Committee shall resolve that it is confidential. For the avoidance of doubt any matter relating to the treatment of any patient within the NHS shall be deemed confidential.

14. Your Data

The Trust holds information relating to you which is subject to the Data Protection Act, 1998. By signing a copy of these Terms and Conditions you consent to the Trust processing, both manually and by electronic means, your personal and sensitive data for the purposes of the administration and management.

15. Appraisal

It is a condition of your term of office that you participate in the Trust’s schemes for appraising your performance at such intervals and in such manner as may be provided in the Constitution. You agree to participate in any induction, training and mentoring schemes that may be recommended by any appraisal carried out on your performance or as required of you by the Trust from time to time.

16. Trust Property

On request (and in any event on termination of your office for any reason) you are required to return to the Trust all Trust Property including your security pass and all keys, computer hardware and software including discs and all documents in whatever form (including notes and minutes of meetings, diaries and address books, computer printouts, plans, projections) together with all copies (irrespective of by whom and in what circumstances such copies were made) which are in your possession.

I agree to accept the post on the terms and conditions as set out above

Signed:

Date: