

Council of Governors Public Meeting

Fri 11 December 2020, 11:00 - 13:15

via teleconference webex



East Kent
Hospitals University
NHS Foundation Trust

Agenda

11:00 - 11:05
5 min

20/42. Chair's introductions

To note *Stephen Smith*

11:05 - 11:05
0 min


20/43. Apologies for Absence and Declarations of Interest

To note *Stephen Smith*

11:05 - 11:05
0 min

20/44. Minutes from the last Council of Governors' Public meeting held on 9 September 2020 and matters arising

To agree *Stephen Smith*

 44 Unconfirmed minutes. public.pdf (4 pages)

11:05 - 11:05
0 min

20/45. Outstanding actions

To agree *Stephen Smith*

 45 Action Log.pdf (1 pages)

11:05 - 11:15
10 min

20/46. Chair's report

To discuss *Stephen Smith*

Verbal

11:15 - 11:30
15 min

20/47. Chief Executive's Report

To note *Susan Acott*

Verbal

11:30 - 12:45
75 min

20/48.

Resolutions

To agree *Stephen Smith*

- 48 Resolutions.pdf (1 pages)
- 48 Resolutions Annex 1.pdf (10 pages)

12:45 - 12:55
10 min

20/49.

Chair report from Audit and Governance Committee

To discuss *Bernie Mayall*

- Including Governor commentary on Trust's Quality Account and Constitution review plan

- 49 AGC Chair report.pdf (3 pages)
- 49 AGC Chair report Annex 3.pdf (3 pages)
- 49 AGC report Annex 1.pdf (3 pages)

12:55 - 13:05
10 min

20/50.

Chair Report from Membership Engagement and Communication Committee (MECC)

To discuss *Alex Lister*

- 50 MECC Annex 1.pdf (17 pages)
- 50 MECC chair report.pdf (2 pages)

13:05 - 13:10
5 min

20/51.

Nomination to stand for election to the NHSP Governor Advisory Committee

To discuss *Alison Fox*

- 51 NHSP nomination.pdf (2 pages)

13:10 - 13:15
5 min

20/52.

Any Other Business

Stephen Smith

Please notify Committee Secretary of matters to be raised - deadline 48 hours before the meeting

DATE OF NEXT PUBLIC MEETING - 11 January 2021 Strategy Meeting - 9 March 2021 Public and Closed Meeting

13:15 - 13:15
0 min

RESOLUTION TO MOVE INTO PRIVATE SESSION

That pursuant to the Trust's Constitution the Council of Governors is moving into closed session. All members of the public, including press, are to be excluded due to the confidential nature of the business to be discussed concerning contracts, negotiations and staff.

**UNCONFIRMED MINUTES OF THE COUNCIL OF GOVERNORS MEETING
17 September 2020 09:00 - Webex meeting****PRESENT:**

| | | |
|----------------------|--|-----|
| Stephen Smith | Trust Chair (Chairman) | StS |
| Debra Towes | Partner Governor – Universities | DTo |
| Jenny Chittenden | Elected Governor – Swale | JCh |
| Liz Baxter | Elected Governor – Folkestone & Hythe | LBa |
| Nick Hulme (phone) | Elected Governor – Ashford | NHu |
| Carla Wearing | Elected Governor – Staff | CWe |
| Carl Plummer | Elected Governor - Folkestone & Hythe | CPI |
| Julie Barker (phone) | Elected Governor – Rest of England | JBa |
| Bob Bayford | Partnership Governor – Local Authorities | BBa |
| Alex Lister | Elected Governor – Canterbury | ALi |
| Jane Martin | Elected Governor – Ashford | JMa |
| Ken Rogers | Elected Governor – Swale | KRo |
| Paul Schofield | Elected Governor – Thanet | PSc |
| Marcella Warburton | Elected Governor – Thanet | MWa |
| Nick Wells | Partnership Governor – Volunteers | NWe |
| Sally Wilson | Elected Governor – Staff | SWi |

IN ATTENDANCE:

| | | |
|----------------|-------------------------------|-----|
| Alison Fox | Trust Secretary | AF |
| Amanda Bedford | Committee Secretary (minutes) | AB |
| Simon Gilmore | NHSE&I | SGi |

| MINUTE NO. CoG/20/ | | ACTION |
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| 32. | CHAIRMAN'S INTRODUCTIONS The Chair welcomed members to the meeting. | |
| 33. | APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST Apologies were received from Julie Pain, Bernie Mayall, John East and Graeme Sergeant. There were no declarations of interest. | |
| 34. | MINUTES FROM THE LAST COUNCIL OF GOVERNORS' PUBLIC MEETING HELD ON 14TH AUGUST 2020 AND MATTERS ARISING The minutes of the previous meeting held on 14 August 2020 were accepted as a true and accurate representation of the meeting and there were no matters arising not covered on the agenda. | |
| 35. | OUTSTANDING ACTIONS There were no outstanding actions. | |
| 36. | CHAIR'S REPORT The Chair highlighted the general issues being faced by the Trust and provided the national context. The Trust was in the process of reset and recovery which was extremely complicated. Space at WHH was an issue and a range of changes were being undertaken in its Emergency Department. In terms of cancer, patient treatment had been maintained | |

Chair's initials

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| | <p>during the pandemic and figures were positive. RTT was an issue, but work was underway to remedy this. The Trust had used the services of the three private sector providers to help maintain elective care (The One, The Chaucer and The Spencer Hospitals). The new Integrated Care System was running a Kent and Medway system for managing waiting times. Susan Acott was working with other CEOs at Dartford and MTW Medway to try to alleviate the issue.</p> <p>The Chair confirmed that Covid infection figures were low and consistent with expected rates. He reminded the meeting that with respect to media communication, nationally Trusts were required to clear information release with NHSE/I.</p> <p>With regard to Maternity, the Director of Improvement in Maternity would be presenting a collation of the plans, which were progressing well. The new 24/7 maternity cover was also proving successful. CTG recordings could now be viewed by consultants from any location.</p> <p>The Trust was increasing the pace with the Integrated Care System. Susan Acott was heavily involved with working with Primary Care Networks locally, with the local Medical Committee and the new Integrated Partnership Committee. The Integrated Care System had to apply for full Integrated Care System membership, the application for which would be submitted in the next few weeks; the hope was to have the Integrated Care System established by the beginning of April. The Chairs of the major providers were now part of the Partnership Board and all was progressing positively.</p> <p>NHu questioned, using elective orthopaedic work as an example, what the average waiting time would be. JCh confirmed she was still waiting for her procedure. The Chair agreed to obtain an average figure and share this with the group.</p> <p>ACTION To provide Trust average waiting time for elective orthopaedics and share with the Council of Governors.</p> <p>DTo suggested that wait time issues had previously related to the efficiency and use of theatres and requested assurance as to whether theatre use was being maximised; she felt it would be preferable to use our own facilities more efficiently than to pay more elsewhere.</p> <p>The Chair highlighted that a virtual vote had been requested to agree that a Governor attend as a member of the Primary Care Network Engagement Group. At the time, ten votes had been cast and a proposal agreed. However, thirteen votes were needed for a decision to be confirmed. Three people voting indicated that BMa would be a good choice for the role. The first meeting of the group had taken place and BMa agreed to join, pending the formal decision of Council. The Chair asked for a vote at the current Council of Governor's meeting to enable BMa's inclusion in the group to be confirmed. A vote was taken and the group agreed unanimously to this proposal.</p> | AB |
| 37. | <p>CHAIR REPORT FROM AGC BMa was not present for this item, so it was presented by KRo and taken after item 39.</p> | |

Chair's initials

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| | <p>KRo outlined the content of the report and highlighted the Constitution review. A task/finish group was going to be set up to this end.</p> <p>JBa requested information about the time commitment involved in participating in the task/finish group.</p> <p>KRo suggested that there were two strands, firstly the Constitution needed to be up-to-date but secondly, if there were changes to be made, these decisions would need to be made before the task/finish group looked at the constitution. The group needed setting up and any changes to the Constitution could be put to this group.</p> <p>JBa and JCh put themselves forward to participate in the task/finish group.</p> <p>The Chair confirmed that in the last two years, the Trust had stuck to its financial position on both years. The Coronavirus had complicated matters but even so, in month 4, the Trust had remained in line with the budget.</p> <p>KRo asked the Chair to clarify the 'value for money' point raised by the auditors. AF confirmed it related to the fact that the Trust was in Special Measures.</p> | |
| 38. | <p>ANNUAL MEMBERS' MEETING</p> <p>AF referred to the paper that had been circulated, outlining the proposal which, due to current circumstances, and in line with other Trusts, detailed a virtual (Webex) format for the meeting. In terms of the Trust's Annual Report and Accounts, these would be laid before Parliament prior to 15th October, which would be in time for the Annual Members' Meeting. She requested views on the proposal.</p> <p>JBa questioned when the event would be advertised and whether consideration had been given to having a speaker to present on the topic of Integrated Care and the future, in order to reassure the public after a difficult year.</p> <p>AF said that the event would be advertised in line with guidance, 14 days ahead of the meeting and the Annual Report and Accounts had to be placed before Parliament before the meeting. No particular speakers had been considered but Susan Acott was keen for something to come through Board, and to have a session that would be available in public for Governors and members of the public. There would be a public event around that, but the Annual Members' Meeting had not been targeted for this purpose. AF would feed JBa's comments back to the Board to see if the timing was right and if so, a speaker may be considered.</p> <p>DTo brought the Governors' attention to the fact that the Trust had funded bursaries for two nursing students, in memory of the two nurses who died in the Trust during the Covid crisis. It had been a competitive process and could be positive news to impart. JBa confirmed she had read this story and had been heartened by it; she felt it should be voiced.</p> | |
| 39. | <p>ELECTIONS 2021</p> <p>AF referred to the proposed timetable and explained it would run so that there was a couple of months in which to induct the new Governors before they commenced in post. This would be run externally and independently.</p> | |

Chair's initials

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| | AF sought the group's agreement. A vote was taken and the group voted unanimously to the proposed timetable. | |
| 40. | <p>ANY OTHER BUSINESS</p> <p>JBa expressed concern at the absence of the Lead Governor, Dr John East, at recent meetings and asked AB/AF if they could offer any explanation for his absence.</p> <p>AF had obtained a list around attendance to share with the group. Dr East had been involved in Department of Health work. Reasons for absence were given at the start of meetings.</p> <p>ACTION AF to circulate list of attendances at meetings to Governors.</p> <p>JBa offered support to JEa, should this be required.</p> <p>KRo suggested that the issue of Lead Governor ought to be referred to again in the future.</p> | AF |
| 41. | <p>DATE OF NEXT PUBLIC MEETING</p> <p>The next meeting of the Council to take place on 11th December 2020.</p> | |

The meeting closed at 09:40.

Signed _____

Date _____

Chair's initials

| CoG 20/45 EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST - COUNCIL OF GOVERNORS, PUBLIC | | | | | | | |
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| Action No. | Date of Meeting | Min No. | Item | Action | Target date | Action owner | Progress Note (to include the date of the meeting the action was closed) |
| 6 | 17.09.20 | 36 | | To provide Trust average waiting time for elective orthopaedics and share with the Council of Governors. | | AB | Action not completed. |

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| REPORT TO: | COUNCIL OF GOVERNORS |
| DATE: | 11 DECEMBER 2020 |
| REPORT TITLE: | RESOLUTIONS |
| SPONSOR: | GROUP COMPANY SECRETARY |
| PAPER AUTHOR: | GOVERNOR AND MEMBERSHIP LEAD |
| PURPOSE: | TO DISCUSS |
| APPENDICES | ANNEX 1 - TABLE |

BACKGROUND AND EXECUTIVE SUMMARY

The table at Annex 1 lists the resolutions brought by Jenny Chittenden and one from Alex Lister. A response is provided and the Council is invited to consider each of the resolutions.

In drafting the table reference to the 'Governing Body' in the resolutions proposed by Jenny has been replaced by 'the Council'. The Board of Directors is the governing body of the Trust.

LINKS TO STRATEGIC OBJECTIVES:

We care about...

- **Our patients;**
- **Our people;**
- **Our future;**
- **Our sustainability;**
- **Our quality and safety.**

RECOMMENDATIONS AND ACTION REQUIRED:

The Council of Governors is asked to consider the resolutions listed at Annex 1.

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

| | Resolution description | Jenny's comments | Constitution reference | Response |
|---|---|------------------|------------------------|---|
| 1 | Every decision made by the Council either in person or virtually needs a majority vote and recorded with votes cast. Any vote that is not recorded will make any decision void. | Ref Constitution | | <p>The Constitution, at Annex 7, provides the following with respect to Council voting:</p> <p>3.13 Voting Every question at a meeting shall be determined by a majority of the votes of the Chairman of the meeting and the governors present and voting on the question and, in the case of any equality of votes, the Chairman or person presiding shall have a second or casting vote.</p> |
| 2 | Every recommendation made by a committee of the Governing body needs recording with votes cast. Failure to record will make any recommendations void. | Ref Constitution | | <p>All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the governors present so request</p> <p>If at least one third of the governors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each governor present voted or abstained</p> <p>If a governor so requests his/her vote shall be recorded by name upon any vote (other than by paper ballot).</p> <p>In no circumstances may an absent governor vote by proxy. Absence is defined as being absent at the time of the vote.</p> |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | | | | <p>It is suggested that Council propose any changes that they wish to make with respect to voting for the Task and Finish group to consider.</p> <p>This could include a request to consider whether there is a need to clarify the circumstances which require a confidential vote to be taken, the criteria to be met in running taking that vote, including any timeframe to be applied. (See item 17 below)</p> <p>In the circumstance that Council wish to include a recommendation that failure to record a vote will make that void, the advice given by the Group Company Secretary to the Task and Finish group is that such instructions are not normally included in a constitution.</p> <p>It is more normal to caveat that failure of an administrative process will not void an action – for example, a governor not receiving the issued notice of a meeting does not void the meeting.</p> <p>This prevents the work of Council being unduly disrupted.</p> |
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Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| 3 | Governors agree that the Lead Governor or Deputy have distinctly different roles, but may if the Council agrees by vote that they can chair or vice chair a Governor committee. | Ref No evidence that they cannot exist | | <p>At the Council meeting held on XX, it was agreed that the same job role would apply to the Lead Governor and Deputy Lead Governor roles. It is open to Council to review this decision.</p> <p>It is practice for the role description of the Lead Governor post to be reviewed annually when the election process is agreed by Council. A process which would now include election of a Deputy Lead Governor following the decision this year to create the post. This discussion is currently on the workplan for the Council meeting on XX.</p> <p>The decision that the Lead Governor should not also hold a Committee Chair position was taken by the Council in the past and carried forward each year without challenge when the annual review of Committee membership takes place in March. Again, this decision can be reviewed by Council, and a specific decision taken with respect to the Deputy Lead Governor. It would fit to do so at the XX meeting, as mentioned above.</p> <p>The original decision is in keeping with good governance practice. The Council has three Committees and if the Lead Governor, or deputy, were to be eligible to take a Committee Chair role, then this could mean that 3 people hold 5 of the Council posts. It is preferable for all 5 posts to be held by different governors. At present, Committees do not routinely appoint Vice Chairs.</p> |
| 4 | The Lead and Deputy roles will be decided by discussion with the Council and reviewed annually | Discussion | | See 3 above: this is already practice and part of the workplan. As the 'end of term of office' changes in Council take place at the end of February, doing this |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | and voted on, at the first meeting in the year | | | work in March means that every governor has the opportunity to serve nearly the full year as Lead Governor, or deputy. The same reasoning applies for holding the review of Committee membership in March. |
| 5 | The Council is responsible for voting on the need and help required when considering the engagement of NEDs | Ref Statutory duties | Governors' statutory duties are found in Chapter 5 of Part 2 of, and Schedule 7 to, the National Health Service Act 2006. | <p>The appointment of NEDs is statutorily the duty of the Council. The Council tasks their Nominations and Remuneration Committee with undertaking such recruitments, which forms part of the NRC terms of reference, including:</p> <p>Agree the process for recruitment of the Chairman and Non-Executive Directors taking into account the views of the Board of Directors on the process in general and the qualifications, skills and experience required for the position.</p> <p>The responsibility for managing the process therefore lies with the NRC Chair, which includes decisions about the support needed and how this will be obtained. Council will recall some debate about the appointment of Green Park in the current NEDs recruitment and the response given by Debra Towse, Chair of the Council's NRC.</p> <p>The NRC work to the Council ratified guidance document on NED and Chair recruitment. This includes the following:</p> <p>The [NRC] will be supported by the Trust Secretary or their representative, and the Director of HR, or their representative. The Trust may arrange for additional support from specialist consultants (the Consultants), identified via a</p> |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | | | | <p>tendering exercise, to maximise the effectiveness of the process. The Consultants will also be in attendance at this meeting.</p> <p>Council may wish to add some wording to this section:</p> <p>... The Trust may arrange for additional support from specialist consultants (the Consultants), under the direction of the Committee, identified...</p> |
| 6 | The Nominations committee of the Council will be chaired by the Chair of the trust or another NED, but may be chaired by a Governor if the Nominations committee agree. | Ref Evidence Code of Governance 2014 paragraph B.2.4 | | <p>When governor Philip Wells took the Chair of the CoG NRC several years ago, it was by agreement of the Council with the understanding that the Trust Chair, or another NED, could hold the post. It has become custom and practice since then for a governor to hold the post.</p> <p>It is acknowledged that the decision should have been reviewed annually. It is suggested that this is made part of the annual review of Committee membership – for Council to formally decide whether the NRC should be chaired by a Governor, Trust Chair or NED.</p> |
| 7 | The Council will have input to the Trusts external communications strategy directly and via the MECC committee, and will be subject to annual review. | Evidence CoG meeting | | <p>Involvement in developing the Trust's Communication strategy is not a specific role of the Council. However, it is recognised that there is a close link between this strategy and the Council's Membership and Member Engagement Strategy and feedback from governors and their members re communication provides valuable information. It is for the Board to assess the effectiveness of the strategy.</p> |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | | | | The strategy is not revised annually but usually runs on a 3 – 5 year cycle. The current strategy runs 2016 – 2020 and was taken to Council for comment at the start of this year. Development was delayed due to the pandemic and a revised document, taking into account comments from both Council and Healthwatch, should be presented to the Board in January. It will be reviewed and updated annually and this will be scheduled into the MECC workplan so that Council are able to comment to Board. |
| 8 | Governors will be removed if they do not attend the required number of Governor meetings set out in the Constitution. | Evidence Constitution | | The CoG AGC now have a standing item on their agenda 'Governor Attendance at Meetings' to monitor this and report to Council if a governor is breaching the requirements. |
| 9 | Attendance at a virtual meeting will only be recorded if the Governor is there for more than 80% of the meeting. | Evidence Discussion | Annex 7 Section 3.17 Record of Attendance | Attendance at Council meetings, either face to face or virtual, is recorded by the requirement of the constitution by way of present or absent. There is no minimum period of attendance stated. |
| 10 | Governor Agenda will have the Serious incidence log, and the risk register at the first meeting of the year and at three other official meeting throughout the year. | Evidence Discussion | | The Terms of Reference of the CoG Audit and Governance Committee include: <ul style="list-style-type: none"> • At each meeting, consider: <ul style="list-style-type: none"> • issues of Quality raised by Governors or their constituents to identify trends and themes; • the Board assurance framework (the overarching risk register); and • quarterly performance against the annual quality objectives and identified risk. |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | | | | <p>Use this information to inform the development of a draft of the Council commentary on the Trust's Quality report to take to Council for agreement.</p> <p>As mentioned at the update meeting of Council on XX, the Board's Quality Committee receives a paper on themes and trends in relations to complaints and serious untoward incidents. It is suggested that this paper is shared with the CoG AGC as part of their remit to focus on issues of quality of patient care.</p> <p>It would not be appropriate to share the Serious Incident Log with Council. The role of Council is to look at the larger picture, hence the suggestion to share the themes and trends paper which will contribute to the intelligence gathered by the AGC for reporting to Council. The log is an operational document and contains a lot of patient identifiable data which cannot be shared.</p> |
| 11 | Governors will have a input to the annual review of NEDs and the objectives. | Evidence discussion | | <p>This is already in the policy for NED and Chair appraisal. Council is reminded that the appraisal process for 2020/21 has been suspended by the centre – which includes appraisal of NEDs.</p> <p>The process will resume for 2021/22, the start of which will be the setting the Trust's strategic direction and objectives by the Board. The Council have an integral part in this process; there is a Strategy</p> |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | | | | <p>meeting scheduled for January when Council will be advised of the Board's discussions and have an opportunity to comment and influence the final decisions.</p> <p>Appraisal objectives are then set for the Chief Executive and cascaded down throughout the organisation so that every member of staff has personal and team objectives linked to the strategy. The Council will be involved in setting objectives for the new Chair, when appointed, who will set and advise Council of the objectives set for NEDs.</p> <p>This follows the guidance for Council on the Appraisal of NEDs and the Chair.</p> |
| 12 | All of terms of NEDs will only be renewed after the position has been put out to competition. | Evidence other trusts and discussions | | This is on the list of suggested changes for consideration by the Task and Finish Constitution review group. |
| 13 | The max term of Governors in constitution of nine years removed. | Discussion This would allow any vacancy that is difficult to fill remain. Governors unlike NEDS do not really need to follow the need to be refreshed. It is thought that any governor that had coincided there should be fresh blood would not go for re election. | Clause 16 of the Constitution sets out Governor tenure. | It is suggested that this is referred to the Task and Finish Constitution review group for consideration. |
| 14 | provision be made and voted on by the Council on the position | Evidence ref constitution | | The appointment of Professor Chris Holland was considered by the NRC, recommended to Council |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | of associate NED, as currently it is missing. | | | and approved. See paper CoG Conf. 19/22 from the Council meeting on 11 November 2019. |
| 15 | That should the balance of Executive and Neds on the board not have a greater number of NEDs the Council can make a temporary appointment or arrangements. | Needed constitution | Clause 25 of the Constitution prescribes the composition of the Board. | It is suggested that this is referred to the Task and Finish Constitution review group for consideration. |
| 16 | That any voting should be open and transparent and all those voting have their vote recorded. | Constitution | | See response to items 1 and 2. |
| 17 | Should the need arise for a confidential vote which should not be very often then this needs to be carried under proper conditions and within an agreed timeslot. | Constitution | | |
| 18 | Minutes should be taken as a true record of all Governors meetings whether Council full meeting or committee and these minutes sent to all governors within fourteen days. | Constitution | | <p>This is agreed and draft minutes or notes are always presented at the next meeting of the Council or Committee for agreement or amendment and the outcome put on record.</p> <p>The objective will be to issue drafts to the Chair of the Council or Committee within 10 working days of the meeting and thereafter issue as a Chair approved draft to members. If this timeframe cannot be achieved then the Chair of Council or Committee will be so advised, a reason given and a new timeframe proposed. Council will be so advised.</p> |
| 19 | Posed by Alex Lister: for Council to consider how to manage the | | | For discussion at the meeting. |

Resolutions submitted by Jenny Chittenden, Public Governor, Swale and Alex Lister, Lead Governor

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| | vacancies created by recent resignations. | | | |
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| REPORT TO: | COUNCIL OF GOVERNORS |
| DATE: | |
| REPORT TITLE: | AUDIT AND GOVERNANCE COMMITTEE (AGC) CHAIR REPORT |
| SPONSOR | CHAIR, AGC |
| PAPER AUTHOR: | GOVERNOR & MEMBERSHIP LEAD |
| PURPOSE: | TO NOTE |
| APPENDICES | ANNEX 1: Constitution review paper ANNEX 2: Meeting Attendance, below ANNEX 3: Draft Governor Commentary |

BACKGROUND AND EXECUTIVE SUMMARY

This report provides Council with an update on the work of the Audit and Governance Committee (AGC). The Committee met on 30 November 2020 with myself, Carl, Paul, Marcie, Nick and Sally in attendance. Apologies were received from Liz Baxter. We noted that John East and Nick Wells, previously members of the Committee, have both left Council.

Constitution Review

The Committee received a proposal paper for undertaking the Constitution review, which we discussed and agreed. I am recommending this proposal to Council for approval; attached at Annex 1.

Meeting Attendance

The meeting received a report on governor attendance at meetings, at Annex 2 below. It was agreed that in future attendance at Council meetings will be included.

Quality Issues

The NED Chair of the Board's Quality Committee, Wendy Cookson, attended the meeting and provided some information on the work of the Committee since the last meeting. We raised two specific issues with her relating to concerns raised with governors about the Harmonia Village and the policy relating to covid testing for parents attending hospital with their children. Wendy is taking these forward with the Medical Director and Interim Chief Nurse; I hope to be able to update Council at the meeting. We also raised concerns about the accuracy of temperature checks for people entering hospitals.

Governor Commentary on the Trust's Quality Report

Liz Coles, Deputy Director of Nursing and the author of the report, attended the meeting to answer our questions on the report. It was recognised that there had been a later version of the draft than that provided in the Committee papers and it was agreed to circulate that to all governors after the meeting. The Committee had some discussion about the content for the draft commentary.

You will be aware that there has been email correspondence about the drafting of the commentary and the very short time frames involved. I have received comments from a number of governors and I have included all of these in a first draft of the commentary, attached at Annex 3.

The Quality Report will be published on 15 December 2020, so this is our deadline for submitting the commentary for inclusion. I invite the Council to discuss this first draft at the meeting and I will then revise the draft in response to the decisions taken by Council and circulate on Monday 14th December, for your virtual approval.

LINKS TO STRATEGIC OBJECTIVES:

- **Getting to good:** Improve quality, safety and experience, resulting in **Good** and then **Outstanding** care.
- **Higher standards for patients:** Improve the **quality and experience** of the care we offer, so patients are **treated in a timely way** and **access the best care** at all times.
- **A great place to work:** Making the Trust a **Great Place to Work** for our current and future staff.
- **Delivering our future: Transforming** the way we provide services across east Kent, enabling the whole system to offer **excellent integrated services**.
- **Right skills right time right place:** Developing teams with the **right skills** to provide care at the **right time**, in the **right place** and achieve the **best outcomes for patients**.
- **Healthy finances:** Having Healthy Finances by providing better, **more effective patient care** that makes resources go further.

RECOMMENDATIONS AND ACTION REQUIRED:

The Council of Governors is asked to note this report and:

1. Approve the proposal for setting up a Task and Finish Group to review the Trust's Constitution.
2. Discuss and agree the content of the Governors' commentary on the Quality Report.

Annex 2 Governor Attendance at Meetings

| | | May-21 | | Jul-09 | | Aug-14 | | Aug-26 | Sep-17 | |
|------------------|--------|--------|--------|--------|-----------------|--------|--------|--------|----------|--------|
| | | Public | Closed | Public | Closed | Public | Closed | Public | Closed | Public |
| Governors | | | | | | | | | | |
| Barker | Julie | x | x | x | x | x | x | x | x | x |
| Bayford | Bob | x | x | x | x | x | x | x | x | x |
| Baxter | Liz | | | | joined 5 August | A | A | A | A | A |
| Chittenden | Jenny | x | x | x | x | A | A | A | x | x |
| East | John | x | x | x | x | A | A | A | Resigned | |
| Hulme | Nick | x | x | x | x | x | x | x | x | x |
| Lister | Alex | x | x | x | x | x | x | x | x | x |
| Martin | Jane | A | A | x | x | x | x | x | x | x |
| Mayall | Bernie | A | A | x | x | x | x | x | x | x |
| Pain | Julie | A | A | A | A | x | x | A | A | A |
| Plummer | Carl | x | x | x | x | x | x | x | x | x |

| | | | | | | | | | | |
|-----------|----------|---|---|---|---|---|---|---|---|---|
| Rogers | Ken | x | x | x | x | x | x | x | x | x |
| Sergeant | Graeme | x | x | A | A | A | A | A | A | A |
| Schofield | Paul | x | x | x | x | x | x | x | x | x |
| Towes | Debra | A | A | x | x | x | x | A | x | x |
| Warburton | Marcella | x | x | x | x | x | x | x | A | A |
| Wearing | Carla | x | x | x | x | x | x | x | x | x |
| Wells | Nick | x | x | x | x | x | x | x | x | x |
| Wilson | Sally | x | x | x | x | x | x | A | x | x |

AGC Chair report Annex 3

DRAFT

GOVERNOR COMMENTARY ON THE 2019/20 QUALITY REPORT

Each year the Council of Governors of East Kent Hospitals University NHS Foundation Trust is asked to comment on the Trust's Quality Report. The Governors have an established approach to providing this commentary that is comprehensive, with the opportunity for all Governors to contribute.

This process normally takes place during April and May and the Trust's Annual reports, including the Quality Report are laid before Parliament in July. Declaration of a global pandemic in the spring had a significant impact, including moving the publication of the Quality Report to December. Formal meetings of the Council of Governors were suspended by national guidance in April. The Council had already gone through significant changes in membership following elections in February and a number of governors resigned in the following months. A lot of experience and knowledge was lost from Council but considerable energy and expertise was also gained. We are therefore taking a pragmatic approach to the commentary, taking into account the context of this most unusual of times.

Last year we noted in the commentary that:

The Council wishes to commend the perseverance and dedication shown by the Trust's staff in delivering such a wide ranging service at a time of national challenges and pressures. The bedrock of the NHS is its staff who go that extra mile as a matter of routine and always hold the care of their patients at the centre of all they do.

How prophetic that turned out to be. In normal times, as governors we have privileged access to wards, clinics and departments across the Trust and we see not only the clinical staff at work but also the vast range of staff who provide essential support services, both operational and administrative. During lockdown many of those staff left their offices and took on active roles in clinical areas. Every member of staff working on the hospital sites during the pandemic risked, and continue to risk, their own safety, as did key workers across the country. We remain indebted to them all for their courage and dedication to public service. We humbly acknowledge that two trust staff lost their lives during this time and deeply sympathise with their families, friends and colleagues. It behoves us as public, staff and partner governors, therefore, to continue to aspire to and strive towards excellence, good governance, and accountability

It is usual for the Council of Governors to set an indicator for the external auditors to look at and report on the Trust's performance; two other indicators are set centrally. This year the Government removed the requirements for these audits, so no indicator was set by Council.

A reminder: it is the role of the CoG to confirm the thrust of the quality report and add comment here in pursuit of quality improvement. As a CoG we confirm the thrust of the quality report and further comment is below.

The quality report is wide reaching in its delivery of statistical evidence of practice and that is valued and should be commended. There are clear areas of excellent practice, dedication and outcomes across the Trust and the people delivering those services patient-facing are commended by the CoG for their dedication, diligence and for going the extra mile. Cancer services for one, and the ability, during the first wave of the pandemic, to continue to deliver these services and also to pivot and deliver Out Patient services effectively and virtually was outstanding. We have some phenomenal people working with us.

As part of our remit to support accountability and represent and support the patients using services and the people serving them the Council of Governors have a duty to report areas of concern that are reported to us or that become apparent to us. The following are some concerns that have been raised by CoG for inclusion in this document, as they have been expressed.

As indicators of the overall concerns specific examples, not exhaustive, include:

- Figures provided about pressure area care indicate that a high proportion of cases were deemed to be of no or low harm. It is difficult to understand how grade 2 or 3 pressure sores can be defined as not causing harm. Council has been advised that the harm data as presented differentiates between sores acquired during a patient's stay and those that they have when admitted. The trust recognizes that this requires further clarity and will be making changes to the data collection. This area of care is something that Council have commented on in the past; while some progress has been made, we suggest that there is more to be done.
- Concerns about a very new and potentially flagship dementia service being raised more than once but no outcome or response and no change other than a deterioration in the service as reported by a variety and diversity of people involved in the service
- There have been many occasions when crucial news of challenges, significant events and public news items have not been passed directly to governors until after the event. The CQC action is just one of those. It is important to note that this feedback has been taken on board and there has been some improvement in the speed and timing of communication but there is real room for improvement. Governors need information in order to do their job effectively. This would include CoG having prior sight of SU1 reports, risk register and so on in order to take a measured view before significant meetings and actions.
- Concerns remaining unanswered about equality of communication for people with a learning disability using the mainstream health services and the already-funded available training that would help to mitigate that.
- Council was concerned to note that the proportion of staff trained to L3 in Safeguarding is not as high as it should be. This is of particular note given the report made by the CQC following their visit to the Trust's paediatric department.
- The trust has difficult media relations and a succession of negative press stories has led to public disquiet and a potential but as yet untested unwillingness to come to hospital for treatment. Some VFM ways to mitigate this have been raised by CoG but as yet there has been no visible response
- Both internal and external communications are perceived as somewhat vanilla, and an absence of visible strong leadership – perceived or otherwise – has the potential to undermine the work of the trust.

The CoG would like to be clear that it has a diverse and talented pool on which to draw and is a good resource to support good practice throughout the Trust and provide a safety net to reduce risks. It appears that the resource may not be being used effectively and there are ways in which this could be improved. The CoG is eager to do so and remains deeply committed to their task, and to collaborative working across the Trust.

For the above reasons we would like Communication and Governance, as they contribute fundamentally to the potential to improve quality, to be added to the existing areas for scrutiny.

| | |
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| REPORT TO: | CoG AUDIT AND GOVERNANCE COMMITTEE |
| DATE: | 30 NOVEMBER 2020 |
| REPORT TITLE: | CONSTITUTION REVIEW |
| PAPER AUTHOR: | GOVERNOR AND MEMBERSHIP LEAD |
| PURPOSE: | DISCUSSION |
| APPENDICES: | |
| BACKGROUND AND EXECUTIVE SUMMARY | |
| <p>One of the responsibilities of the Council is to liaise with the Group Company Secretary in relation to reviewing the Trust's constitution. The AGC terms of reference require that the Committee works with the Trust Secretary to ensure the Trust's Constitution complies with latest legislation and NHS I guidance. This paper proposes a process and timeframe for this work.</p> <p>The bulk of the work is normally undertaken by a task and finish group (TFG) consisting of the Senior Independent Director, the Group Company Secretary, three governors and another NED, with administration support. Legal advice is also provided.</p> <p>The plan suggested is for the TFG to hold one meeting to undertake the review and their recommendations for any changes will then be presented formally to Council for approval and then on to Board for approval. Changes have to be approved by both bodies and, in rare circumstances, may need final approval from NHSI/E. There are circumstances where changes need to be proposed and agreed at the Annual Members Meeting, though again these are rare.</p> <p>Prior to the TFG meeting governors and Board members will be given the opportunity to suggest any changes that they think are needed, or areas to consider, and a report will be prepared for the TFG detailing those suggestions and, where appropriate, any legal advice pertaining. Some specific areas for review have already been identified at various Council meetings and these have been logged for inclusion in the report. It is suggested that a day should be set aside for the TFG meeting.</p> <p>There is a Council meeting scheduled for 9 March and a Board meeting on 11 March. It is therefore proposed that the TFG meet in early February. The Committee may wish to consider whether the AGC Chair should be one of the Council representatives.</p> | |
| LINKS TO STRATEGIC OBJECTIVES: | <ul style="list-style-type: none"> • Getting to good: Improve quality, safety and experience, resulting in Good and then Outstanding care • Higher standards for patients: Improve the quality and experience of the care we offer, so patients are treated in a timely way and access the best care at all times • A great place to work: Making the Trust a Great Place to Work for our current and future staff • Delivering our future: Transforming the way we provide services across east Kent, enabling the whole system to offer excellent integrated services • Right skills right time right place: Developing teams with the right skills to provide care at the right |

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| | <p>time, in the right place and achieve the best outcomes for patients</p> <ul style="list-style-type: none">• Healthy finances: Having Healthy Finances by providing better, more effective patient care that makes resources go further |
| <p>RECOMMENDATIONS AND ACTION REQUIRED:</p> <p>The Committee is asked to note the process and discuss the content of the draft Quality Report to provide the basis for the first draft of a Governor commentary.</p> | |

20/21 Governor Commentary

Summary of member and public feedback relating to service quality in September 2020 to date. The continuing pandemic has impacted on engagement with members.

| Source | Number of contacts | Notes |
|--------------------------|---------------------------|---|
| Member email | 0 | No contacts from members. |
| Governor enquiry email | 0 | No contacts |
| Reports from Governors | 0 | No contacts reported |
| Questions from Governors | 1 | Enquiry re staff Learning Disabilities training – response outstanding. |
| Meet the Governor: | | Not undertaken. |
| Ward Visits | | Not undertaken |
| Governor Newsletter | | GNL issues on 27 November 2020. |

East Kent Hospitals University NHS Foundation Trust

Social Media Policy

| | |
|--|--|
| Version: | 1 |
| Approved by: | Staff Committee |
| Date approved: | 16 December 2017 |
| Ratified by: | Policy & Compliance Group |
| Date ratified: | 23 January 2018 |
| Name of originator/author: | Communications Officer |
| Director responsible for implementation: | Director of Communication and Engagement |
| Date issued: | |
| Review date: | |
| Target audience: | All Trust staff |

Version Control Schedule

| Version | Date | Author | Status | Comment |
|---------|------|--------|--------|---------|
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Consultation and Ratification Schedule

| Name and Title of Individual | Date Consulted |
|------------------------------|----------------|
| | |
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| Name of Committee | Date Reviewed |
|-------------------|-------------------|
| Staff Committee | 26 September 2017 |
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1. Policy Summary

- 1.1. This policy sets out the standard that should be followed by all East Kent Hospitals University NHS Foundation Trust (EKHUFT) staff when using social media, either through individual social media accounts or through a trust-operated account, and when it is believed a patient or visitor may be using images or details of patients, visitors or staff on social media on Trust premises.

2. Introduction

- 2.1. When staff use social media in a professional or semi-professional capacity (e.g. through a personal Twitter or Facebook profile, which also identifies them as a Trust employee and is used to discuss professional issues, a policy is required to clarify what is and is not acceptable. A policy is also needed to ensure social media accounts operated on behalf of the trust are managed consistently and in accordance with patient confidentiality and data governance considerations.
- 2.2. Social media can also be a very useful and cost-effective tool for communicating and engaging with Trust staff but a policy is needed to clarify the circumstances in which staff use of social media is acceptable.
- 2.3. This policy supports the Trust's existing Information Governance and Information Security policies.

3. Definitions

- 3.1. For the purpose of this Policy, the following definitions apply:
- 3.1.1. Consultation
The process of seeking the views of those with the expertise to support the development of the Document or those who will use the Document once ratified.
- 3.1.2. Social media
The term commonly used for websites and applications that enable users to create and share content or to participate in social networking. This includes social media sites such as Twitter, Facebook, LinkedIn, YouTube, Pinterest, Google+, Flickr, Keek, Reddit, Vine and Vimeo but does not include third party messaging platforms such as Skype and WhatsApp.
- 3.1.3. Social networking
Generally refers to people socialising and making social connections through social media.
- 3.1.4. Account or profile
Commonly-used terms for space operated by an individual or organisation within a wider social media 'host' website, like Twitter or Facebook. For example, the Trust's Twitter account can be viewed at www.twitter.com/EKHUFT

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- 3.1.5. **Posting or Tweeting**
Uploading short written messages to sites like Facebook and Twitter is commonly known as posting or tweeting in the case of the latter.
- 3.1.6. **Blogging**
The process of writing longer pieces in the form of an online diary known as a blog, which is derived from the phrase 'web-log'. Examples of blogging websites include WordPress and Tumblr.
- 3.1.7. **Moderating**
The process of checking and potentially removing or amending comments made by third parties on social media accounts, forums or websites. People with the ability to moderate sites or social media accounts are commonly known as moderators, 'mods' or 'admin'.

4. Purpose and Scope

- 4.1. This policy applies to all employees employed by and working on behalf of EKHUFT including contracted, non-contracted, temporary, honorary, secondments, bank, agency, students, volunteers or locums.
- 4.2. Users who are found to breach this policy on the use of social media will be managed in line with the organisation's disciplinary policy, referred to the NHS Counter Fraud Service for possible criminal investigation, or most appropriate process.
- 4.3. It is important to remember that adhering to the Trust's Data Protection Policy applies equally both inside and outside of working hours, when any reference is made to work, colleagues or patients, either specifically or indirectly. All policies apply equally inside and outside of work hours when work-related.
- 4.4. Also, where the trust allows access to the internet, accessing any social networks is at the sole discretion of the Trust and staff are required to abide by the content of this policy as well as the Information Security Policy, which should be read in conjunction with this policy.

5. Duties

- 5.1. The Communications Director has overall responsibility for the effective operation of this policy. Questions regarding the content or application of this policy should be directed to the Communications Director.
- 5.2. The Communications Director is responsible for reviewing the operation of this policy and making recommendations for changes to minimise risks to Trust operations.

- 5.3. All staff are responsible for their own compliance with this policy and for ensuring that it is consistently applied. All staff should ensure that they take the time to read and understand it.
- 5.4. If a member of staff is concerned about something they read on a social media site, it is their professional responsibility to alert their line manager, and complete an incident report. If it is brought to the attention of the Trust that inappropriate information, images or comments have been posted, then the allegation will be investigated. Where the concern relates to potentially fraudulent action (e.g. working privately while sick, or tweeting that they are going home early, but still getting paid for an extra hour), referral can be made direct to the Trust Counter Fraud team via the National Fraud and Corruption Reporting Hotline 0800 028 40 60.

6. Social media use

- 6.1. When using social media as individuals:
 - 6.1.1. The use of social media for personal use is prohibited during working hours. However, staff, volunteers and contractors of the Trust may use designated facilities provided by the Trust for their private use of social media during their work breaks, with the agreement of their line managers.
 - 6.1.2. Social media sites must never be used to access or share pornographic, offensive or otherwise inappropriate material which may be deemed detrimental to the reputation of the Trust.
 - 6.1.3. Staff, volunteers and contractors may also use private social media accounts in a professional or semi-professional capacity (eg accessing Trust communications via social media, using social media to share best practice with peers) outside of work breaks for the general benefit of the Trust with the consent of their line managers. However, this must always be done in accordance with the Trust's existing Information Governance and Information Security policies.
 - 6.1.4. Staff, volunteers and contractors should be aware that the Trust reserves the right to use legitimate means to monitor employee internet use on Trust IT equipment, including use of social media sites, for content that it finds inappropriate. If inappropriate use of the internet is suspected, managers may request internet usage reports and where warranted, action may be taken in accordance with the Trust's Disciplinary Procedure and normal HR processes. The case may also be referred to the Trust Counter Fraud team for criminal investigation.
 - 6.1.5. Staff, volunteers and contractors are encouraged to observe professional guidance from respective professional bodies.
 - 6.1.6. Employees may identify themselves as trust employees but should state that they are tweeting/blogging etc. in a personal capacity.
 - 6.1.7. Staff, volunteers and contractors are ultimately responsible for their own behaviour online. Staff and contractors must take care to avoid posting online content that is inaccurate, libellous, defamatory, harassing, threatening or may otherwise be

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illegal. If not, they may be subject to civil proceedings or criminal prosecution.

- 6.1.8. No social media sites or pages relating to the Trust should be set up by staff, volunteers or contractors without approval from the Communications team. All accounts created for trust purposes should meet the organisation's branding requirements. Further information and guidance can be obtained from the Communications Team – call 01227 866384 or email ekh-tr.communications@nhs.net
- 6.1.9. Staff, volunteers and contractors who may not directly identify themselves as Trust staff members when using social media for personal purposes should be aware that the content they post could still be interpreted as relevant to their employment with the trust under certain circumstances, for example by a journalist who is aware or deduces that someone is a trust employee. This is particularly relevant when expressing strong views, political allegiances or posting content of an offensive, controversial or sexual nature and if posted in the public domain, comments and images posted can generally be reproduced without their permission.
- 6.1.10. Unauthorised disclosure of confidential information constitutes misconduct /gross misconduct as outlined within the trust's Disciplinary Policy. The matter may also be referred to the Trust Counter Fraud team for criminal investigation under the Computer Misuse act (1990).
- 6.1.11. When using social media, staff should respect their audience. As a general rule, staff should be mindful of any detrimental comments made about colleagues while using social media, e.g. failing to show dignity at work (harassment), discriminatory language, personal insults and obscenity. These examples are not exhaustive and will be considered a disciplinary matter.
- 6.1.12. If, as non-employees, volunteers, contractors and individuals on work placements are exempt from conventional disciplinary/HR processes, any misuse of social media by them must be dealt with appropriately by whichever trust employee is responsible for their supervision while at the Trust or managing the contract with their company. This may result in a number of measures, including the termination of their role/contract with the trust where it is deemed appropriate.
- 6.2. When using social media as a service tool:
 - 6.2.1. There should be clear potential benefits to patients and/or colleagues within EKHUFT and/or the wider local or national healthcare community from setting up a new social media account. You must also be able to illustrate team and departmental commitment to the initiative. Starting a social media account but rarely using it or not replying to messages from stakeholders will be seen in a poor light and will result in the account being closed.
 - 6.2.2. Monitoring/moderating the site must be done regularly in order that any malicious or malevolent comments are removed as soon as possible. This must be undertaken within the department and the Trust's Communications Team and relevant managers must be informed of any material which may potentially attract media interest, breach patient confidentiality or bring the trust into disrepute generally.

- 6.2.3. It is important to note that comments made on a social media account operated by the Trust belong to the organisation and can be disclosed under the Freedom of Information Act 2000.
- 6.2.4. The Information Commissioner has also dictated that the organisation must be in a position to receive a Freedom of Information Act/Environmental Information request via that medium and site. Any such requests received via trust-operated social media accounts should immediately be forwarded to ekh-tr.foi@nhs.net. Staff members managing a Trust social media account are advised of this on Staff Zone.
- 6.3. Social media use by patients, public and visitors on Trust premises
 - 6.3.1. Due to the proliferation of internet-enabled mobile phones and other handheld devices, it is not practical or possible for the trust to monitor or control social media activity by patients and visitors either on or off trust premises.
 - 6.3.2. However, in order to protect confidentiality, patients and visitors must not take images of other patients, visitors or trust staff and post them on social media websites without their written consent. Patients and visitors must also not post personal or medical details relating to other patients and trust staff on social media without their written consent.
 - 6.3.3. Trust staff should challenge anyone believed to be uploading pictures, video or personal details of other patients, visitors or trust staff without written consent. In the first instance, staff should ask that the individual/s concerned delete any images taken and/or remove social media posts revealing personal details. If patients or visitors do not comply with this request, they may ultimately be asked to leave in appropriate circumstances, as their behaviour could constitute 'causing nuisance or disturbance on NHS premises' as outlined in Section 119 of the Criminal Justice and Immigration Act 2008. It may also be appropriate to report activity of this nature to the police in certain circumstances, for example if it suspected that images of a voyeuristic nature are being recorded or if the material posted is of a significantly offensive or threatening nature (as outlined in the Communications Act 2003).

7. Key Stakeholders, Consultation, Approval and Ratification Process

- 7.1. This policy applies to all Trust staff that use social media in a professional or semi-professional capacity. Staff will be consulted on its content through Staff Committee. The policy is approved through the Staff Committee and ratified through the Policy and Compliance Group.

8. Review and Revision Arrangements

- 8.1. This policy will be reviewed as scheduled in three years' time unless legislative or other changes necessitate an earlier review. The Trust's requirements with regard to Equality Impact Assessment will be followed.

9. Dissemination and Implementation

- 9.1. The policy will be readily available on the Trust's Intranet policies page and via the Trust wide policy system.
- 9.2. Other communication methods, such as additional newsletters and global emails, may also be appropriate.
- 9.3. There are no particular training requirements associated with the implementation of the policy but the Communications Team will provide assistance where required around setting up and operating social media accounts.

10. Document Control including Archiving Arrangements

- 10.1. The policy, in its previous form and future version formats, will be maintained in the Human Resources shared drive and also entered on the Trust's central register of policies in accordance with Trust's Policy for the Development and Management of Organisation-wide Policies and other Procedural Documents.

11. Monitoring Compliance

- 11.1. Records of all social media accounts operated by Trust departments will be maintained and will be subject to a process of random audit by the Communications Team, to ensure that all content meets the standards as outlined in the trust's policies as well as the relevant legislation, e.g. Data Protection Act 1998. Relevant data must also be regularly recorded (eg twitter followers, Facebook 'likes', YouTube subscribers) in order to monitor the effectiveness of the account.

12. References

Information Commissioner's Office 'What is the Freedom of Information Act?'
<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>

Criminal Justice and Immigration Act 2008
<https://www.legislation.gov.uk/ukpga/2008/4/contents>

Communications Act 2003
<https://www.legislation.gov.uk/ukpga/2003/21/contents>

13. Associated Documentation

- 13.1. This policy should be read in conjunction with the Trust's existing Information Governance , Data Protection and Information Security policies.

Appendix A

Appendix A - Equality and Human Rights Analysis (EHRA)

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|--|--|
| This Equality Analysis should be attached to any policy, strategy or business case for decision. | |
| <i>Name of the policy, strategy or business case:</i> | Social Media Policy |
| Details of person completing the Analysis | |
| Name | Gemma Shillito |
| Job Title | Head of Media and Communications |
| Division/Directorate | Communications and Engagement |
| Telephone Number | 722-6315 |
| What are the main aims, purpose and outcomes of the policy, strategy or business case? | <p>To ensure Trust staff use of social media, whether in a professional or semi-professional capacity, is appropriate, upholds patient confidentiality, and is in line with the Trust's values. To ensure Trust-operated social media accounts are used in a way that is beneficial to patients and/or staff.</p> <p>This policy applies to all Trust staff using social media.</p> |
| Does it relate to our role as a service provider and/or an employer? | Service provider |
| Information and research: <ul style="list-style-type: none"> Outline the information and research that has informed the decision. Include sources and key findings. <p>Include information on how the decision will affect people with different protected characteristics.</p> | <p>The use of social media as an information and engagement tool is increasing, particularly high among young people and females (Ofcom, 2016). This policy allows members of the public, patients and staff an opportunity to be informed by and engage with the Trust via social media. The communications team works hard to ensure other (non-digital) opportunities to inform and engage staff and the local population are also used.</p> <p>The use of Trust-operated social media accounts allows an alternative means of information and engagement for patients, members of the public and staff. The policy aims to ensure these accounts are beneficial to patients, members of the public and staff.</p> <p>The policy seeks to limit inappropriate or discriminatory remarks on social media and give staff guidance on how to report any such activity.</p> |
| Consultation: <ul style="list-style-type: none"> Has there been specific consultation on this | No consultation |

| | | |
|---|---|---|
| decision? <ul style="list-style-type: none"> • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? Can any conclusions be drawn from the analysis on how the decision will affect people with different protected characteristics? | | |
| Is the policy, strategy or business case relevant to the aims of the equality duty? Guidance on the aims can be found in the EHRC's PSED Technical Guidance . | | |
| Aim | Yes/No | |
| Eliminate discrimination, harassment and victimisation | Yes | |
| Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it | Yes | |
| Foster good relations between persons who share a relevant protected characteristic and persons who do not share it | Yes | |
| Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics. When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men. | | |
| Protected characteristic | Relevance to decision High/Medium/Low/None | Impact of decision Positive/Neutral/Negative |
| Age | Medium relevance for young people and women, who tend to be high users of social media for information and engagement | Positive |
| Disability | None | Neutral |
| Gender reassignment | None | Neutral |
| Marriage and civil partnership | None | Neutral |
| Pregnancy and maternity | None | Neutral |
| Race | None | Neutral |
| Religion or belief | None | Neutral |
| Sex | None | Neutral |
| Sexual orientation | None | Neutral |
| Mitigating negative impact: | Click here to enter text. | |



| | |
|--|---|
| Where any negative impact has been identified, outline the measures taken to mitigate against it. | |
| Conclusion: <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see PSED Technical Guidance). <p>Advise on the overall equality implications that should be taken into account in the final decision, considering relevance and impact.</p> | <p>This policy is designed to enhance the opportunities for information and engagement provided to patients, members of the public and staff through the Trust’s use of social media and ensure Trust-operated accounts are beneficial to their users.</p> <p>It is also designed to protect all groups from discriminatory behaviour via social media.</p> |
| Signature of person completing the Analysis | |
| Name | Gemma Shillito |
| Signed | Click here to enter text. |
| Date | Click here to enter text. |
| Approval and sign-off Head of Department/Director | |
| Name | Natalie Yost |
| Signed | Click here to enter text. |
| Date | Click here to enter text. |
| Chair of decision making Board/Group/Committee approval and sign-off | |
| Name | Click here to enter text. |
| Signed | Click here to enter text. |
| Date | Click here to enter text. |



APPENDIX B - Additional guidance for staff at work and home

- Check the trust's Information Security Policy and know the extent to which this applies to your use of social media.
- When registering with a website, understand what you are signing up to by reading the terms and conditions carefully and just as importantly determine what security, confidentiality and liability claims, undertakings and exclusions exist.
- Be aware of your personal responsibility not only for the words you post but also for the comments of others you allow on your blog or webpage.
- Ensure privacy settings are set appropriately. Most social media websites give you the option to decide what level of personal information is available to view and to whom.
- Respect others when using social media. Social media sites allow photographs, videos and comments to be shared with thousands of other users. However, it may not be appropriate to share work-related information in this way. For example, there may be an expectation that photographs taken at a private organisation event will not appear publicly on the internet, both from those present and perhaps those not at the event. The use of photographs of patients/service users require written permission from the subject photographed or their parent/guardian. Consent forms are available from the Communications Team.
- Staff should be considerate to their colleagues in such circumstances and should not post information when they have been asked not to. They should also remove information about a colleague if that colleague asks them to do so.
- Under no circumstance should offensive comments be made about EKHUFT colleagues, EKHUFT business or patients on the internet. This may amount to cyber-bullying or breach of patient confidentiality and could be deemed a disciplinary offence.
- Do not post materials that could be considered discriminatory e.g. relating to gender, marriage or civil partnership, gender reassignment, pregnancy and maternity leave, sexual orientation, disability, race, colour, ethnic background, nationality, religion or belief and age.
- Do not reply to messages or accept friend requests from people you don't know or patients (unless where appropriate for a trust-operated account).
- Never state your address or telephone number publicly.
- Remember: Once something is put out on social media, even if you delete it, it may have already spread and there may be a record of it kept indefinitely.
- Don't say anything online that you would not say personally or wish others to hear.

APPENDIX C - Procedure for setting up an EKHUFT operated social media account/site

- All applications must be made through the Communications Team at ekh-tr.communications@nhs.net by using the pro forma attached to the document (Appendix D)
- The approving line manager(s) is expected to conduct a monthly review of any social media venture approved by them. This review is to check for regular and relevant submissions that add value. Regular reviews will also be carried out by the Communications Team as part of random audits.
- The Communications Team will keep a register of all trust-approved social media accounts.
- Any areas for concern will be brought to the attention of the manager who approved the social media account. Any accounts falling short of agreed standards will be reported to the line manager who approved the initial site. Approval may be rescinded and the site closed if a secondary review within an agreed time period shows little or no improvement.
- The site administrator is responsible for ensuring that:
 1. The purpose of the blog/social networking group is clearly laid out for all to see. A disclaimer is displayed prominently on the site, for example: The views expressed in this (group/blog/website/forum etc) are those of the members and do not necessarily reflect the views of EKHUFT
 2. It is made clear whether the group is open to all or only to approved individuals. The Communications Team is fully aware of the account, has an up-to-date link to it, knows who the current administrator and back-up administrator are and is made aware of any significant changes to its administration and/or purpose.
 3. The employee acting as the site administrator must handover ownership of the blog/social media account/site to another member of EKHUFT staff if they leave the department or trust, and must inform the Communications Team of this. Any passwords used to administer a site or account should be changed if a former administrator leaves the trust.
 4. EKHUFT's logo should be used where appropriate as a way of identifying an association to the trust but only with the explicit permission of the Communications Team
 5. The line manager and HR should be immediately made aware of accusations of any racist, sexist, homophobic, sexually explicit, abusive or otherwise objectionable posts/comments made through the site, either by a member of staff or an external contributor.
 6. Managers aware of any trust-operated social media accounts already in existence should complete a retrospective pro-forma and inform the Communications Team.
 7. The site administrator should contact the Communications Team before making any major announcements relating to the work of the trust, for example the receipt of awards or significant changes in service provisions.



APPENDIX D – EKUFT SOCIAL MEDIA PROFORMA

| | | | |
|---|-------------|-----------|------------------|
| Responsible Officer (who will act as the Information Asset Owner) Name: | Department: | Division: | Contact details: |
|---|-------------|-----------|------------------|

| | |
|--|--|
| Administrator Name and Department | |
| Platform/group request i.e. Facebook (closed account), Twitter etc. | |
| Background information: | |
| Why do you wish to use social media? | |
| Target audience: | |
| Benefits: | |
| Risks (e.g. disgruntled parties posting information about child custody disputes, staff members posting inappropriate comments) | |
| How will the risks be managed? | |
| Permission granted by Communications? | |



| | |
|---------------------------------|--|
| Page URL/Handle i.e. @EKHUFT | |
|---------------------------------|--|

Appendix E: Author’s Checklist of compliance with the Policy for the Development and Management of Organisation Wide Policies and Other Procedural Documents

POLICY: Social Media

To be completed and attached to any policy when submitted to the appropriate committee for consideration and approval.

| | Requirement: | Compliant Yes/No/Unsure | Comments |
|-----|--|----------------------------|----------|
| 1. | Style and format | Yes | |
| 2. | An explanation of any terms used in documents developed | Yes | |
| 3. | Consultation process | Yes | |
| 4. | Ratification process | Yes | |
| 5. | Review arrangements | Yes | |
| 6. | Control of documents, including archiving arrangements | Yes | |
| 7. | Associated documents | Yes | |
| 8. | Supporting references | Yes | |
| 9. | Relevant NHSLA criterion specific requirements | Unsure | |
| 10. | Any other requirements of external bodies | Yes | |
| 11. | The process for monitoring compliance with NHSLA and any other external and/or internal requirements | Unsure | |

| | |
|----------------------|--|
| REPORT TO: | COUNCIL OF GOVERNORS |
| DATE: | 11 DECEMBER 2020 |
| REPORT TITLE: | MEMBERSHIP ENGAGEMENT AND COMMUNICATION COMMITTEE (MECC) CHAIR'S REPORT |
| SPONSOR: | MECC CHAIR |
| PAPER AUTHOR: | GOVERNOR AND MEMBERSHIP LEAD |
| PURPOSE: | TO DISCUSS |
| APPENDICES | Annex 1 Social media policy and checklist |

BACKGROUND AND EXECUTIVE SUMMARY

This report updates Council on the meeting of the MECC held on 4 November 2020. Members attending the meeting were myself, Carl, Jenny, Paul, Carla and Bob; Marcella was also in attendance.

Social Media presence

The Committee would like to propose to Council the creation of a Governor twitter account. Natalie Yost has confirmed that the Communications team already support a number of accounts run by Trust services and that there is a Social Media Policy which would need to be adhered to. That and the Trust checklist for setting up an account is attached at Annex 1.

The account would be managed by the Trust with governors encouraged to provide regular contributions. The intention would be to publicise dates of Council meetings and events, give up to date health care information and provide updates on governor activity.

Governor Newsletter

The Committee discussed the content of the next GNL. The aim is to produce the newsletter monthly, for it to be shorter in length with a header containing a call to arms and a short 300 – 300 item from an individual governor to follow. Jenny volunteered to be the first governor to draft an item.

The governors' newsletter previously agreed has finally gone out. Having been drafted on August 11, it is disappointing that it took until 27 November to go out. We hope that the data showing how many people read the governors' newsletter may now be available, having first been requested in early 2017.

Membership

It was noted that the membership had fallen by 2 from the previous report and around 200 from the same time last year. The Governor and Membership Lead reported that the numbers of new members joining via the website and as a result of new volunteers joining the Trust, generally balanced the number of members leaving. However, the numbers in the lower age bracket were falling, they move into the higher tier as they grow older, so this is an area that should be focussed on when active recruitment resumes.

With the support of the Director of Communications, Jenny has volunteered to do some research work into the feasibility and cost of placing an advertisement into newsletters published by local authorities. This would be a simple message: how to join as an FT member and how to contact your governor.

The Committee have been looking at the possibility of including information about FT Membership and governors in the letters sent out by the Trust. It was disappointing to learn at this meeting that the project would need to be placed on hold until there is greater stability in outpatient systems. The Trust felt that adding information into the letters, or an insert into the envelope, was not appropriate while efforts were being focussed on dealing with the impact of the pandemic and winter pressures.

Concern about delays in following through Committee actions

Engaging with members and the wider public is a key responsibility of governors and is required to provide effective governance. Only by establishing an effective two-way dialogue with the constituents can trends be identified, and issues highlighted.

Unfortunately, significant barriers and blockages exist within the trust management that prevent effective communication. The time taken to send out the newsletter is a prime example, but most other requests from MECC have been either kicked into the long grass or altogether refused.

While Covid-19 dominates a significant portion of the trust's capacity, these problems predate the pandemic. There is certainly a lack of resource, but also a lack of will to get things done. At the last MECC meeting a request was made from governors that timescales must be agreed and adhered to, and should deadlines slip, that governors be made aware. This request was denied. Further attempts to agree deadlines for subsequent actions were also rejected.

It is the feeling of MECC that unless changes to the way of working are made, the engagement work carried out by the committee is futile.

This is my final report to the Council as Chair of MECC; having been elected as the Lead Governor I am not able to also hold a CoG Chair post. Jenny Chittenden has been appointed by the Committee members as the Chair.

LINKS TO STRATEGIC OBJECTIVES:

We care about...

- **Our patients;**
- **Our people;**
- **Our future;**
- **Our sustainability;**
- **Our quality and safety.**

RECOMMENDATIONS AND ACTION REQUIRED:

The Council of Governors is asked to note and discuss this report.

| | |
|----------------------|--|
| REPORT TO: | COUNCIL OF GOVERNORS |
| DATE: | 11 DECEMBER 2020 |
| REPORT TITLE: | NHS PROVIDERS GOVERNOR ADVISORY COMMITTEE |
| SPONSOR: | GROUP COMPANY SECRETARY |
| PAPER AUTHOR: | GOVERNOR AND MEMBERSHIP LEAD |
| PURPOSE: | TO AGREE |
| APPENDICES | NONE |

BACKGROUND AND EXECUTIVE SUMMARY

This report proposes that Carl Plummer be nominated for election to the Governor Advisory Committee.

Governors are represented at NHS Providers through an elected Governor Advisory Committee (GAC) consisting of eight governors and one foundation trust chair. The committee meets quarterly and meetings are overseen by a chair that has been voted in by the committee. Term of office is three years.

GAC members provide oversight and feedback on the work and areas that require debate and action. They have the opportunity to help shape the governor services provided to NHSP members

Nominations opened 2 November 2020, and close on 18 December 2020. Each foundation trust is able to nominate one governor to stand for election to one of eight governor positions.

More details about the Committee can be found at:

<https://nhsproviders.org/training-events/governor-support/governor-advisory-committee>

Carl has expressed an interest in standing for election and seeks Council approval to submit a nomination. It is noted that he is standing for election for a second term as EKHUFT governor in the new year. NHSP have advised that this will not prevent the nomination; if Carl is not re-elected then should he be successful in the GAC election he will be eliminated and the candidate with the next highest vote offered the vacancy. The only impact for our Council is that only one nomination can be made per trust, so there is a risk to putting Carl's name forward should he not be re-elected in the EKHUFT election.

Carl has provided the following in support of his nomination:

I have been a Public Governor for Folkestone & Hythe with the East Kent Hospitals University NHS Foundation Trust for just over a year now. I am seeking re election for February 2021. I believe the Governor's role, although not operational is fundamentally vital for the governance of a Trust. I am passionate about the NHS and its Staff and Patients. I believe a Governor to be a "Critical Friend" of the NHS . To join the Governor Advisory Committee on behalf of my Trust would be an honour and a privilege. I hope I can bring forthright and critical discussion to the table, not just to benefit my individual Trust, but to assist other Governor's to understand and shape the role of the Trust Governor for the future. I am always willing to learn from others and I believe membership of the committee would help me influence the future shaping of the role and how we, as

Governors can assist and shape our Trusts for the future. I am only a beginner, I have lots to learn and to contribute to the Committee. I hope you will allow me to join you in shaping the Governor role for the future. Thank you for taking the time to read my statement, and I hope on the basis of this you would allow me to be elected to the National Governors Advisory Committee.

Should Council agree to the nomination, this would need to be submitted by the Group Company Secretary.

LINKS TO STRATEGIC OBJECTIVES:

We care about...

- **Our patients;**
- **Our people;**
- **Our future;**
- **Our sustainability;**
- **Our quality and safety.**

RECOMMENDATIONS AND ACTION REQUIRED:

The Council of Governors is asked to approve the nomination of Carl Plummer to the elections for the NHS Providers Governor Advisory Committee.