

# **GUIDE TO THE APPOINTMENT OF THE TRUST CHAIRMAN AND NON-EXECUTIVE DIRECTORS OF THE BOARD**

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**Produced & updated by the Resourcing Manager**

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## Introduction

The aim of this document is to help the Council of Governors, Chairperson and Trust HR personnel with the appointment process for the Trust Chairman and Non-Executive Directors of the Board, ensuring that appointments are made as smoothly and effectively as possible. The document has been approved by the Council of Governors.

To further help, it is required that all those Governors involved in these processes attend the Trust Recruitment & Selection course which covers the relevant equality and diversity issues. Further information can be obtained from the Trust Education and Training team.

Any appointment must be open and transparent, and accord with the Nolan principles and other good practice guidance. As part of this process, the Nominations and Remuneration Committee must assure the Council, via a written report, that it has followed due processes and must highlight the appointee's significant attributes. It is recognised that the Council of Governors ultimately makes both Chair and NED appointments and may not accept the recommendations of the Nominations and Remuneration Committee.

**For further information, advice & guidance on the appointment process, please do not hesitate to contact the Trust Secretary on Ext 73660 or the Resourcing Manager on Ext 76323.**

## Role Descriptions

Each NED post must have a Role Description (RD) that includes essential candidate competencies and skill sets. The Chairman of the Trust should draft the RD using the generic template attached at Annex A for recommendation by the Nominations and Remuneration Committee to the Council of Governors. The RD should include any specific Board responsibilities (e.g. membership of any committees) and the Person Specification should reflect the essential and desirable skills, knowledge and attributes required to undertake these duties. The Chairman should also determine any other skills, knowledge and attributes required of the successful applicant in order to ensure the Board can function efficiently and effectively given the existing composition of the Board and any key challenges facing the Trust. Finally the content of the RD should also meet any statutory or best practice guidance from the DoH, Monitor and other relevant organisations.

## Remuneration and Advertising

The Nominations and Remuneration Committee must recommend the Terms and Conditions including remuneration for the post. Any levels agreed beyond those currently in use will however need to be discussed with the Chairman, Chief Executive, Director of Finance and the Director of HR before going to the Council of Governors for approval. The Committee should also, in discussion with the Chair determine whether the recruitment and selection is to be handled internally, or in partnership with an external recruitment agency.

The Nominations and Remuneration Committee will also need to decide whether the post is to be advertised locally and/or nationally, draft the content required of the advert and approve the final copy prepared by either the Trust Resourcing Team or the external recruitment agency. As part of this process consideration should be given as to whether the Trust would wish to state that it welcomes applicants from certain sections of the community, duration of the advert, closing date and the composition and timing of the interview panel.

The interview panel for NED recruitment must include the Chairman [who will chair the panel], three Governors [as determined by the N&R Committee] and another NED [as determined by the Chair of the panel]. Where the NED vacancy is for the Chair of the Trust the chair of the Interview Panel will be either the Deputy Chair of the Board of Directors or Senior Independent Director). In addition, for the Chair appointment, the Nominations and Remuneration Committee will invite a chair of another Foundation Trust to sit as an observer / adviser on the interview panel, however, the invited chair will be able to ask questions and be involved in the discussions about the candidates but they will not have a vote.

The Nominations and Remuneration Committee will also need to agree the contents of the recruitment pack with the Trust Resourcing Manager which will be sent to candidates as part of the recruitment process. The Resourcing Manager will advise the Nominations Committee on these and other recruitment and selection methods as required.

The Trust Chairman, in the case of NED appointments, will be available for informal conversations and will lead an awareness event for candidates. When recruiting for the Trust Chairman, the Deputy Chairman or Senior Independent Director (SID) will provide this facility.

In all cases, a member of the Trust Resourcing Team will be present to administer and assist the interview panel with the proceedings.

# Shortlisting

## 1. Introduction

The shortlisting process is conducted by the N&RC and seeks to identify suitable candidates for interview. As far as possible all the selection panel should have the opportunity to participate in the shortlisting process. This can however be extended to a wider group of shortlisters from the Nomination and Recruitment Committee. The date by which this process should be complete must be determined by the Nominations and Remuneration Committee, at the same time as the date is set for the interview process (at least 10 days notice of being called to interview should be provided).

The shortlisting process should be carried out objectively and consistently, comparing each application with the RD and Person Specification to establish whether, on paper, the person has the type of background that is necessary or desirable for the position.

## 2. Shortlisting Process

A scoring matrix will be available for the shortlisting panel (developed by either the Trust Resourcing Team or the external recruitment agency) along with the CVs and/or application forms. It is recommended that the panel use the scoring matrix as an aide to their shortlisting work.

## 3. Scoring Applicants

Scoring should be based on the following:

- Meets all criteria = 4
- Meets most criteria = 3
- Meets some criteria = 2
- Meets none of criteria = 1

For example;

<i>AR Candidate Reference Number</i>	<i>Experience</i> (e.g. E 2 yrs Board level experience, D Experience working in the Health Sector )		<i>Skills</i> (e.g. E Legal Qualification, Understanding of Health Problems D IT Literate)	
	<i>E</i>	<i>D</i>	<i>E</i>	<i>D</i>
AR-354-798-52	4	2	1	2
AR-198-594-26	2	2	1	2
AR-653-465-28	2	4	4	4

\* *E = Essential criteria*      *D = Desirable criteria*

As a general rule the candidates with the **highest scores** who meet all or most of the essential criteria should be invited to interview, though where possible a maximum of 5 candidates should be invited to interview.

All members of the panel will receive all the application forms and have a minimum of seven days to review and score the applicants before final decisions are made at a meeting of the shortlisting panel. Once shortlisting is complete all the paperwork should be submitted to the Resourcing Manager or the external recruitment agency along with confirmation of which applications have been shortlisted or rejected. Only those applicants who have been shortlisted will then be invited to interview, those candidates not shortlisted will be informed by letter. The Resourcing Team will also collect and record all the relevant equality and diversity monitoring information.

## **Interview Preparation**

### **Applicants**

After the panel has determined which candidates should be invited for interview the Trust Resourcing Team or the external recruitment agency will send out interview invitation letters to all relevant applicants.

Applicants will be requested to confirm whether or not they will be attending their interview at least 48 hours before the interview.

### **Interview Panel**

The Trust Resourcing Team or external recruitment agency will provide Interview packs to all members of the panel in advance of the interviews, consisting of details of the interview, a role description, suggested areas of questioning for the interview and complete copies of the CV and application forms.

## **Interview Assessment**

The following best practice principles should be noted and applied throughout the interview process:

- Ask the same questions to every applicant.
- Start the interview by easing the applicant into the interview – ask them to talk through their application form – ensuring you ask them about any gaps in their employment history.
- Base your questions on the criteria detailed in the RD and Person Specification.
- Take notes during the interview to enable you to identify whether the candidate is appointable or not and to allow you to rank those you have identified as appointable. This will also form part of the audit trail to confirm that the process is fair.
- Consider using presentations as part of the interview process. This may enable the interview panel to test those skills which cannot be ascertained from the application form
- Allow enough time for the interviews. Remember that you will need time between interviews to finish writing up your notes to help you make a decision once you have finished all interviews.
- All candidates should be asked as part of the interview process whether there are any reasons known to them that would create a conflict of interest or, in the event of their appointment, bring the Trust into disrepute.

## **Decision to appoint and verbal offer of appointment**

Following completion of all interviews, the interview panel will review the evidence collected as part of the recruitment process in order to identify their preferred candidate including, responses and scores to interview questions and/or presentations given by the candidates, CV and application form.

Ideally the decision to appoint will be unanimous. In the event it is not, a vote may need to take place.

Once agreement is reached, references for the preferred candidate which will have been obtained in advance by either the Trust Resourcing Team or external recruitment agency will be provided to the interview panel for review.

With these being considered satisfactory and the panel in agreement, a verbal offer of employment can be made to the preferred candidate. Any offer of appointment should be made subject to satisfactory occupational health clearance, DBS checks, right to work and remain in the UK, and formal approval by the full CoG (either at a formal meeting or via e-mail). The latter will require the Nominations and Remuneration Committee to propose a candidate to the CoG (either at a meeting or, with agreement, through email) with the reasoning behind their selection proposal and an outline of the process followed.

If the applicant declines an offer of appointment it is advisable to explore the reasons for this decision. The panel may then decide to make an offer to the second choice candidate.

The panel should be aware that a verbal offer of appointment may be legally binding and therefore care should be taken to ensure the relevant information is discussed with the applicant.

Unsuccessful candidates should be offered feedback from the Chairman of the panel at a mutually convenient time.

## **Written offer of appointment and pre-appointment clearances**

Once the verbal offer has been accepted by the applicant and the CoG has approved the appointment, any documentation relating to the appointment process (including unsuccessful candidates and any verbal references obtained), should be returned to the Trust Resourcing Team.

The Trust Resourcing Team will send an appointment letter from the Chair of the Trust to the successful applicant offering them a 3 year term in the first instance, together with a starter pack asking him/her to contact the Chairman to agree a start date. The individual will be required to sign and return this appointment letter and to indicate the agreed start date.

The following pre-appointment clearances are required to be completed for all Non-Executive Director appointments prior to their start date and will be administered by the Trust Resourcing Team;

### **1. Occupational Health**

The preferred applicant will be asked to complete the form and send it directly to the OH department for action.

### **2. Relevant Certification**

If the position requires a specific academic or professional qualification, as articulated in the RD, applicants are asked to bring evidence of this to their interview. The Trust Resourcing Team representative will take a photocopy of it for reference purposes.

If the post requires UK professional registration, the Chairman must ensure that the Resourcing Team representative takes a copy of the applicant's proof of registration (such as their Nursing and Midwifery Council card) and return this with the interview paperwork.

The Trust Resourcing Team will then check this registration formally for the preferred applicant prior to confirming the appointment in writing to ensure that it is valid and up to date.

### **3. Fit and Proper Persons**

The Trust as part of its standard licence conditions, must not appoint a Director who is an unfit person, except with the approval in writing of Monitor. Condition 4 of the Trust's Licence defines an unfit person as:

(a) an individual;

(i) who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged; or

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

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

(iv) who is subject to an unexpired disqualification order made under the Company Directors' Disqualification Act 1986; or

(b) 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  
(vi) which becomes subject to an order of a Court for winding up.

The Trust Resourcing team will undertake checks to ensure any preferred applicant is suitable for appointment via the Insolvency Service and Company House websites as well as Standard level Disclosure and Barring checks

#### **4. Identification Confirmation**

Before the interview the Chairman should also ensure that the Resourcing Team representative checks and takes photocopies of the applicant's original identification documents. This is for two reasons: to ensure that the interviewee is who they say they are and; to confirm their immigration status. Applicants are informed when they are invited to interview of the suitable combination of identification that they can bring to interview that evidences both their Right to Work in the UK and their identification as determined by the UK Border Agency and the NHS Employment Check Standards.

## **Induction and New Starter paperwork**

The successful candidate will be sent a number of forms with their appointment letter including a Starter Form, P46, and Car Parking Permit Application Form, with instructions to bring them to the Trust on their first day to be checked and signed by the Chairman.

The Chairman will be required to complete an RA01 form for the individual to be issued with an appropriate access to IT systems, an ID badge and a Smart card, as well as a Bank Details Form which should be forwarded to the Workforce Information Team.

The individual will be required to complete their online Corporate Induction and Statutory and Role Specific training once they have been issued with the appropriate IT systems access.

## **Terms and Conditions and Personal File**

The Resourcing Manager will produce a Terms and Condition document for the new NED or Chair by their start date (see Annex B) and forward it to the Chairman (or Deputy Chairman or SID in the case of appointing a new Chair) together with the individual's personal file. The Chairman/ Deputy Chair/ SID should check the document for accuracy and sign it on behalf of the Trust before issuing it to the new starter. One copy of the signed document should be returned by the individual for inclusion on their personal file.

The slip confirming receipt by the Chairman of the new NED's or Chairs personal file should also be signed and returned to the Trust Resourcing Team as soon as possible.

## ROLE DESCRIPTION

### 1. POST DETAILS

**Post Title:** Non-Executive Director (NED) or Chairperson

**Directorate:** Trust Board

**Accountable to:** Chairman and Council of Governors

### 2. POST PURPOSE

NEDs are responsible for providing appropriate oversight and strategic direction, driving culture and values, sound governance and, with executive colleagues, leadership to the Trust, in the pursuit of its strategies to provide effective and high quality healthcare services. NEDs should hold the Executive Directors' to account for the performance of the Trust in meeting agreed goals and objectives. NEDs' monitor the performance arrangements of the Trusts activities and must satisfy themselves as to the integrity of financial, clinical and other information, and that financial and clinical quality controls and systems of risk management are robust and defensible. They are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, executive directors, and in succession planning. The post holder will serve on various committees which will be agreed on appointment.

### 3. DIMENSIONS OF THE TRUST

**Trust Revenue 2012/2013:** c£500m

**Trust Employees:** c7 000

**Hospital Sites:**

- Buckland Hospital, Dover
- Kent & Canterbury Hospital, Canterbury
- Royal Victoria Hospital, Folkestone
- Queen Elizabeth Queen Mother Hospital, Margate
- William Harvey Hospital, Ashford
- plus Community Child Health Clinics

**Annual Paybill:** c£300 million

### 4. MAIN DUTIES AND RESPONSIBILITIES

#### Strategy

- Establishing clear objectives to deliver the agreed plans and strategy to meet the Provider Licence and regularly review performance against those objectives;
- Ensuring the effective implementation of Board of Director decisions by the Chief Executive and the senior management team;
- Holding the Chief Executive to account for the effective management and delivery of the Trust's strategic aims and objectives;
- Ensuring the long term sustainability of the Trust;

- Analysing and contributing positively to the strategic development of long term healthcare plans for the community;
- Leading in the discussions on the strategic development of the Trust;
- Providing vision to the Trust to capitalise on the freedoms it enjoys as a result of its status;
- Contributing to constructive debate regarding the strategic development of the Trust and any other material and significant issues facing the organisation;
- Building and maintaining close relations between the Trust's constituencies, and stakeholder groups to promote the effective operation of the trust's activities;
- Ensuring the board of directors sets challenging objectives for improving performance; and
- Ensuring that strategies and actions approved by the board of directors are implemented effectively by the Chief Executive and the senior management team.

### **Compliance**

- Ensuring that the Trust complies with the terms of its Licence, the constitution and any other applicable legislation and regulations;
- Maintaining mandatory services and retaining protected property as defined in the Licence;
- Maintaining the financial viability, using resources effectively, controlling and reporting on financial affairs in accordance with the requirements set out by the health sector regulator (Monitor);
- Ensuring the best use of financial and other resources in order to maximise effective treatment to patients;
- Ensuring that financial controls and systems of risk management are robust and that the board is kept fully informed through timely and relevant information;
- Participating in the appointment of the Chief Executive and other senior staff, as appropriate;
- Working with the Clinical Commissioning Group's to ensure the effective delivery of services commissioned through contracted arrangements;
- With the assistance of the Trust Secretary, promoting the highest standards of corporate and clinical governance in compliance with the NHS Foundation Trust Code of Governance and other regulatory requirements and best practice, where appropriate;
- Upholding the values of the Trust by example, and to ensure that the organisation promotes equality and diversity for all its patients, staff and other stakeholders;
- Promoting equality of opportunity and human rights in the treatment of all staff and patients;
- Ensuring the Trust meets its commitment to patients and targets for treatment; and
- Establishing and maintaining the highest standards of clinical and environmental hygiene to assure robust infection control standards.

### **Board activities**

- Participating fully in the work of the board, ensuring the corporate responsibility of the Board of Directors;
- Attending and possibly chairing, committees and other ad hoc meetings of the main Board;
- Participating in Executive Patient Safety Visit's;
- Working corporately with the NEDs and Executive Directors of the Trust;
- Liaising and co-operating with the Council of Governors, and having due regard of their opinions, as appropriate;
- Participating in any Board induction / mandatory training, job specific training and evaluation identified as an individual and as part of the Board or committee;
- Working with the Senior Independent Director on the annual performance evaluation of the chair, in line with the process agreed by the Council of Governors and reporting back to the Council of Governors appropriately; and
- Undergoing an individual and board performance appraisal, and attending any additional training highlighted as a result of the evaluation process.

## **Special Responsibilities**

**[This should be completed for each individual appointment based on the needs of the Trust]**

### **Miscellaneous**

- Uphold the highest standards of integrity and probity, adhering to the Nolan Principles;
- Safeguarding the good name and reputation of the Trust; and
- Acting as a trustee of charitable funds, where appropriate.

## **5. PERSON SPECIFICATION**

- Sound knowledge of corporate governance
- Board level experience in a large/complex/changing organisation
- A commitment to NHS values and principles of NHS foundation trusts
- An understanding and interest in healthcare issues
- Ability to understand complex strategic issues, analyse and resolve difficult problems
- Sound, independent judgement, common sense and diplomacy
- Clear understanding, and acceptance, of the legal duties, liabilities and responsibilities of nonexecutive directors
- Highly developed interpersonal and communication skills
- Strong business and financial acumen
- Proven leadership skills
- Politically astute, with the ability to grasp relevant issues and understand relationships between interested parties; and
- Sufficient time and commitment to fulfil the role.

## **6. COMMUNICATION AND WORKING RELATIONSHIPS**

- Chairman
- Governors and Members
- Chief Executive and members of the Executive Team
- Other non-Executive Directors
- Senior Managers and Heads of Department
- Clinical Directors and Medical Staff
- Membership of various working groups and committees as required
- Staff Representatives
- Trust Staff
- Directors and Senior Managers other Trusts
- Department of Health and Social Care
- Monitor

Dear

**RE: Appointment as non-executive Director of East Kent Hospitals University NHS  
Foundation Trust**

We are pleased to confirm your appointment as a non-executive Director of East Kent Hospitals University Hospitals NHS Foundation Trust (“the Trust”). These are the terms and conditions under which your appointment has been made. It is important that you read these carefully and contact the Trust Secretary should you have any queries. We would be grateful if you could sign and return the enclosed copy of this letter to confirm your acceptance of these terms and conditions.

## Appointment

Your appointment as a non-executive Director will begin on [insert date] and will end on [insert date]. You may also be eligible for re-appointment. Your appointment may, however, be terminated early in accordance with the terms of this letter.

As a non-executive Director, you hold a statutory office under the National Health Service Act 2006. Your appointment is governed by the terms of the Trust's Constitution (which term also includes the Annexes) and by the terms of its authorisation granted by the Independent Regulator.

Your appointment does not create any contract of employment or contract for services between you and the Trust.

You will be subject to annual appraisals as a non-executive Director to review your performance in your role.

You may not take up any employment position with the Trust whilst you are a non-executive Director.

## Re-appointments

Non-executive Directors are eligible to be considered for re-appointment at the end of their period of office.

Re-appointments will be by competition for a maximum period of 3 years at a time in accordance with the Constitution. The total length of service permissible as a non-executive Director will be 9 years.

## Removable from office

If any of the grounds for exclusion or disqualification set out in the Constitution as it may be amended from time to time apply to you, then your appointment may be terminated. You must immediately notify the Chairman and the Trust Secretary if any event occurs which would or may disqualify you from or make you ineligible to continue in your role as a non-executive Director.

In addition, you may be removed as a non-executive Director at a general meeting of the Council of Governors at which your removal is approved by three-quarters of the members of the Council of Governors.

## Time commitment

You will be expected to devote whatever time is reasonably necessary to carry out Trust business and which is appropriate to the role of non-executive Director. This will include attendance of the following:

- Meetings of the Board of Directors;
- Any relevant training and/or induction sessions;
- Attendance at any committees or sub-committees to which you are appointed.

Your time commitment may include some time during the working day or in the evening according to the requirements of the Trust.

Subject to paragraph 4.1 above, the minimum time commitment that you would be expected to commit to your role as a non-executive Director is [insert hours]

## Role and responsibilities

Your role and responsibilities as a non-executive Director are set out in the Constitution and Scheme of Delegation.

You will be expected to adhere to the Code of Conduct for Directors.

You must comply with any Codes of Practice, Codes of Conduct or other recommendations issued by the Independent Regulator.

## Remuneration

You will receive remuneration from the Trust for the period that you hold office as a non-executive Director. Your remuneration will be [£ insert figure] per annum or such other amount as may be determined by the Council of Governors in general meeting from time to time, which will be paid monthly in arrears.

The Trust will reimburse you for all reasonable and proper expenses which you incur in performing your duties as a non-executive Director of the Trust. You must provide such evidence as the Trust may reasonably request in support of any application for the payment of expenses.

Your remuneration will be subject to appropriate deductions of tax, national insurance or other statutory deductions.

You are not entitled to any other remuneration or benefits except those set out in this letter.

You are not entitled to join the NHS Pension Scheme. You are not entitled to any compensation for loss of office if your appointment as a non-executive Director is terminated for any reason.

## Outside interests

You must comply with the provisions set out in the Constitution relating to the Declaration of Interests and any such other policy or requirement regarding the disclosure of interest as the Trust may introduce from time to time.

You must also comply with the provisions relating to the Standards of Business Conduct and also the Disclosure of Interests in any matter being considered by the Board as set out in Annex 8 of the Constitution as it may be amended from time to time.

## Public speaking

You must not normally make political speeches or engage in any other political activities in relation to matters affecting the work of the Trust or your role as a non-executive Director of the Trust. In cases of doubt you should seek the advice of the Chairman.

## Confidentiality

You must not, during the period of your appointment or at any time after its termination for any reason, use or disclose to any person, except in the proper course of your duties, any Confidential Information.

Confidential Information includes any information passed to you which is confidential in nature and of value to the Trust including but not limited to patient records and details, information relating to organisational business contracts, information relating to financial affairs, service or commercial contracts and the information relating to confidential policies of the Trust or its successor organisations.

On the termination of your appointment for any reason, you must return all reports, minutes, working papers, computer disks, tapes and any other material (including copies) which belong to the Trust.

#### Indemnity

You will be entitled to an indemnity from the Trust in the proper performance of your duties in accordance with the terms of the Constitution.

#### Equal opportunities

The Trust is committed to providing equal opportunities regardless of sex, marital status, race, age, religion, sexual orientation, nationality, national origins and disability.

You may obtain a copy of the Trust's equal opportunities policy from the Director of Human Resources. You must comply with the terms of the policy at all times.

#### Data Protection

By signing this letter, you consent to the Trust holding and processing any information about you which you provide to the Trust or which the Trust may require as a result of your appointment and to the Trust holding and processing any sensitive personal data about you.

You must at all times comply with the provisions of the Data Protection Act 1998 and any policies of the Trust in relation to the protection of data when carrying out your role as a non-executive Director.

#### Loss of personal effects

The Trust will not accept liability for loss of damage to personal property on Trust premises by burglary, fire, theft or otherwise. You should make arrangements to provide your own insurance cover.

#### Grievances

If you have any concerns or grievances relating to your role as a non-executive Director, you may raise these grievances with the Chairman or Trust Secretary. The Trust will take all reasonable steps to investigate any grievance which you raise in a fair manner.

I would be grateful if you would sign and return the enclosed copy of this letter as soon as possible to confirm your acceptance of these terms and conditions of appointment.

Yours sincerely

