

COUNCIL OF GOVERNORS: 4 February 2015

Report Title: Proposed Amendments to the Constitution of the Trust

Report From: Mrs Sandra Dodson, Chairman

Report Purpose: To discuss and approve the proposed amendments to the Constitution of the Trust

Introduction

1. The Constitution of HDFT was updated in line with the requirements of the Health and Social Care Act 2012 and brought into effect on 1 April 2013. It was subsequently updated, with minor changes, to the current version dated 1 January 2014. Since then there have been a number of changes both in the way the Trust operates and the regulations which it is required to observe. This paper details the amendments which are now proposed to ensure that the Constitution remains up to date and fit for purpose.

2. The Constitution Review Working Group considered these proposed amendments, in accordance with its Terms of Reference, at its meeting on 19 January 2015. The proposed amendments were submitted for information and approval to the Trust's Board of Directors at its meeting on 28 January 2015. Approval by the Board requires more than half of the Board of Directors to vote in favour of the amendments. The Trust Board approved the proposed amendments.

3. The proposed amendments are presented to the Council of Governors for discussion and approval. Approval by the Council of Governors requires more than half of the Council of Governors to vote in favour of the amendments.

The Proposed Amendments

4. The proposed amendments to the main document are as follows:

Paragraph 11.2.3 Amend LMC to read 'Local Medical Committee'

Paragraph 11.2.3.2 Delete 'North Leeds LMC (One Governor)'

Insert 'Patient Experience Stakeholder Governor'

Paragraph 11.5.1 Delete in toto

Insert 'The organisations set out in 11.2.3 shall, on request, furnish the trust with the names of Governors appointed to serve and be responsible for replacement as necessary'

Paragraph 11.8.1.1 Renumber 11.8.1.2

Insert new paragraph 11.8.1.1 'they have been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity'

Paragraphs 11.8.1.2 to 11.8.1.5 Renumber to 11.8.1.3 to 11.8.1.6

Paragraph 11.8.1.6 Delete in toto

Insert 'they have within the preceding two years been dismissed from any paid employment with a health service body for reasons considered to be inappropriate by this trust' and renumber to 11.8.1.7

Paragraphs 11.8.1.7 and 11.8.1.8 Renumber to 11.8.1.8 and 11.8.1.9

Paragraph 11.8.1.9 Delete in toto

Insert ' they are not by reason of their health capable of properly performing tasks which are intrinsic to the office for which they are elected or appointed' and renumber 11.8.1.10

Paragraphs 11.8.1.10 to 11.8.1.14 renumber to 11.8.1.11 to 11.8.1.15

Paragraph 11.9.1.8 Line 3 Delete 'Offenders Act 1977'

Insert 'Offences Act 2003'

Paragraph 11.10.1.2 Delete in toto

Insert "to call an election within six months, provided that the period of the vacancy exceeds six months'

Paragraph 11.12.3.4 Delete 'held by a Local Authority Governor'

Paragraph 11.12.3.5 Delete 'which is appointing a Stakeholder Governor'

Paragraph 13.8 Delete Lines 1 and 2

Insert ' A Governor, whether elected to the Council of Governors by a public constituency, elected by one of the classes of the staff constituency or nominated as a stakeholder Governor, may not'

Paragraph 16.1.3 First line Delete 'The appointment of Executive Directors is for a committee consisting '

Insert 'The Non-Executive Directors and Chief Executive will establish and set the terms of reference for a Nominations Committee for the appointment of Executive Directors. The committee should consist'

Last line Delete 'trust's disciplinary procedures.'

Insert 'application of the appropriate trust policies and procedures.'

Paragraph 16.6.1 Line 4 Delete 'Human Resources'

Insert ' Workforce and Organisational Development'

Paragraph 16.7.1 Insert new '16.7.1.1 they are not of good character

16.7.1.2 they do not have the qualifications, competence, skills and experience which are intrinsic for the work for which they are to be appointed, or have been appointed

16.7.1.3 they have been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity'

Paragraphs 16.1.7.1 and 16.1.7.2 renumber 16.1.7.4 and 16.1.7.5

Insert new Paragraphs 16.1.7.6 'they are the subject of a bankruptcy restriction order or an interim bankruptcy restriction order or an order to like effect made in Scotland or Northern Ireland

16.1.7.7 they are a person to whom a moratorium period under a debt relief order applied under Part VIIA (debt relief order) of the Insolvency Act 1986

16.1.7.8 they are included on the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland

16.1.7.9 they are prohibited from holding the relevant office or position or from carrying on the regulated activity, by or under enactment'

Renumber 16.7.1.3 to 16.1.7.8 to 16.1.7.10 to 16.1.7.15

Paragraph 16.1.7.9 Line 2 Delete 'otherwise....health'

Insert after body 'for reasons considered to be inappropriate by the trust' and renumber 16.1.7.16

Renumber 16.1.7.10 to 16.1.7.17

Paragraph 16.1.7.11 Line 2 Delete 'Head'

Insert 'Deputy Director' and renumber 16.1.7.18

Paragraph 16.1.7.12 Delete in toto

Renumber 16.1.7.13 to 16.1.7.19

5. It is proposed to replace the current Annex B 'Model Election Rules' with an updated set of Model Election Rules which have been developed by NHS Providers (formerly the Foundation Trust Network). These Model Election Rules have been slightly amended to reflect HDFT requirements. The amendments both delete the requirement for the home addresses of Governor candidates to be published. The proposed Model Election Rules are attached as at Annex B to this paper.

6. It is proposed to replace the current Annex C with a revised version which has been amended to include Governors nominated by a partner organisation and to be consistent with the proposed changes to the Constitution. This is attached at Annex C to this paper.

7. Finally, it is proposed to amend the Table of Contents to ensure that the Annexes are named, as follows:

Annex A Area of the trust

Annex B Model Election Rules

Annex C Form of Declaration

Annex D Council of Governors Standing Orders

Annex E Declaration of Interests by Directors and Governors

8. The Council of Governors is recommended to **discuss and approve** the proposed amendments.

9.

Annex A: HDFT Constitution January 2014 – *forwarded separately by e-mail*

Annex B: Model Election Rules – *forwarded separately by e-mail*

Annex C: Revised Annex C to Constitution - attached

29 January 2015

Harrogate and District 
NHS Foundation Trust

Form of Declaration

Harrogate and District NHS Foundation Trust
Lancaster Park Road
Harrogate
HG2 7SX

Date:

Dear Sirs

Election or Nomination to the Office of Governor

I confirm that I am a member of the **staff constituency/public constituency/have been nominated by a partner organisation** *[delete as appropriate]*, and that I:

- am not a Director of the NHS Foundation Trust, or a governor of another NHS Foundation Trust;
- am not a public member who shares the same household as a member of the Board of Directors of the NHS Foundation Trust;
- have not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity;
- have not been adjudged bankrupt or my estate has been sequestrated and (in either case) I have not been discharged;
- have not made a composition or arrangement with, or granted a trust deed for, creditors and have not been discharged in respect of it;
- have not within the preceding 5 years been convicted in the British Islands of any offence where a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed;
- have not within the preceding two years been dismissed from any paid employment with a health for reasons considered to be inappropriate by this Trust;
- am not a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that my appointment was not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
- have not had my name removed by a direction under paragraph 10 of the National Health Service (Performers Lists) Regulations 2004 or

Section 151 of the 2006 Act (or similar provisions elsewhere), and have not subsequently had my name included in such a list;

- am not able by reason of my health of properly performing tasks which are intrinsic to the office for which I am elected or appointed;
- have not had my name placed on a register of Schedule 1 offenders pursuant to the Sex Offences Act 2003 and/ or the Children and Young Persons Act 1933 and the conviction is not spent under the Rehabilitation of Offenders Act 1974;
- am not a vexatious complainant of the NHS Foundation Trust, as defined by the Trust policy;
- am not a vexatious litigant of the NHS Foundation Trust, as defined by the Trust policy;
- am not a family relation or occupant of the same household of a person who is an existing Governor of the NHS Foundation Trust; and
- confirm any amount properly owing to the NHS Foundation Trust by me, if any, does not remain outstanding without good cause.

Yours faithfully

SIGNATURE

PRINTED NAME

DATE.....