



# Governors' Code of Conduct

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Type of document	Policy
Target audience	Governors
Document purpose	The purpose of this Code is to make clear the requirements of office for all individuals occupying the position of governor on the Trust's Council of Governors.

Approving meeting	Council of Governors	Date 7 <sup>th</sup> April 2015
Implementation date	April 2015 followed by an annual compliance review	

Document change history	
What is different?	
Appendices / electronic forms	Have appendices been added, or changed since the last issue, if so explain the reasons why?
What is the impact of change?	Will this new document change the way we do things currently

Training requirements	There <b>are no</b> specific training requirements for this document.
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Financial resource implications	No
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External references
1. Monitor Code of Governance, 2014

Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
Does this document affect one group less or more favourably than another on the basis of:		
- Race	No	
- Ethnic origins (including gypsies and travellers)	No	
- Nationality	No	
- Gender	No	
- Culture	No	
- Religion or belief	No	
- Sexual orientation including lesbian, gay and bisexual people	No	
- Age	No	
- Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
Is there any evidence that some groups are affected differently?	No	

Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? N/A		
Is the impact of the document likely to be negative? - If so can the impact be avoided? - What alternatives are there to achieving the document without the impact? - Can we reduce the impact by taking different action?	No N/A N/A N/A	
Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted.		
If you have identified a potential discriminatory impact of this procedural document, please refer it to the human resource department together with any suggestions as to the action required to avoid / reduce this impact. For advice in respect of answering the above questions, please contact the human resource department.		
Was a full impact assessment required?	N/A	
What is the level of impact?	N/A	

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## **1. Introduction**

### **1.1 Constitution**

The Council of Governors is constituted and operates in accordance with the requirements of the Constitution of the Foundation Trust.

### **1.2 Roles**

Governors give their time and expertise to the Foundation Trust, working in a voluntary capacity. They have a key role in the appointment, reappointment, appraisal and remuneration of the Chair and of the Non-Executive Directors. They also decide on the appointment of the external auditors.

With the help of the Trust, governors engage with the constituencies that elected them or the bodies that appointed them, acting as a two-way channel of communication. Equipped with this knowledge, they offer feedback to the Board of Directors on the future strategic direction of the Foundation Trust.

Unlike Executive and Non-Executive Directors, including the Chair, Governors are not individually or collectively liable for the performance of the Foundation Trust. Therefore, governors are not involved in operational decision-making or any executive or managerial functions. Governors are responsible for holding Non-Executives to account for the performance of the Board of Directors and therefore seek and obtain relevant sources of assurance.

### **1.3 Accountability**

Governors are accountable to the membership of the Foundation Trust or their appointing body for their conduct.

## **2. Values**

Governors are expected to uphold the values of the NHS and the values of the Trust, specifically the 6 Cs. These are:

- Compassion
- Competence
- Communication
- Courage
- Care
- Commitment

## **3. Responsibilities**

### **3.1 Governors are expected:**

- a. to act in the best interests of the Trust, to commit to and actively support the NHS Foundation Trust's vision and values and to seek at all times to support the NHS Foundation Trust in its aims and priorities and ensure its needs and interests are foremost in decision-making;
- b. to abide by and uphold the policies of the Trust;

- c. to attend meetings of the Council of Governors and actively contribute to its working in order for it to fulfil its functions as defined in the Constitution and licence.
- d. to feedback to the members who elected them or the bodies which appointed them, the views of the Council, and providing evidence to the Council that those duties have been undertaken;
- e. to be involved in the work of the sub-committees and to attend meetings of those to which they are appointed;
- f. to send their apologies to the Corporate Affairs team in advance if they are unable to attend a meeting;
- g. to accept decisions that were properly made by a majority of the Council, even if they do not agree with them or were not present when they were made;
- h. to undertake appropriate training and development, as provided by the Trust;
- i. to keep themselves informed about the Trust by reading relevant information;
- j. to declare any possible conflict of interest (see 8 below);
- k. To act with discretion and care in respect of difficult and confidential issues and to maintain confidentiality with regard to information gained;
- l. to recognise that as a Governor that if I am a member of any trade union, political party or other organisation,, I will not be representing those organisations (or the views of those organisations) but will be representing the constituency that elected me, or the organisation that nominated me;
- m. To undergo a Disclosure and Barring service (DBS) check;
- n. To respect and treat with dignity and fairness fellow governors, the public, patients, relatives, carers, NHS staff and partners in other agencies;
- o. To seek to ensure that we are all inclusive.;
- p. To at all times comply with the Constitution, Standing Orders and Standing Financial Instructions of Cheshire and Wirral Partnership NHS Foundation Trust, and I will adhere to the guidelines set out within the Governors' Meeting Etiquette Policy;
- q. to not make, permit, or knowingly allow to be made any untrue or misleading statement relating to my own duties or the functions of Cheshire and Wirral Partnership NHS Foundation Trust;
- r. to seek to ensure that the best interests of the public, patients, carers and staff are upheld in decision-making and the decisions are not improperly influenced by gifts or inducements;
- s. Insofar as their duties allow, to support and assist the Accountable Officer (Chief Executive) of Cheshire and Wirral Partnership NHS Foundation Trust in their responsibility to answer to the Independent Regulator (Monitor), commissioners and the public to fully and faithfully declare and explain the use of resources and the performance of the Trust.

#### **4. Personal Conduct**

##### **4.1 Fit and proper person**

It is a condition of the Trust's licence that each governor serving on the Council of Governors is a 'fit and proper person'.

In this Condition an unfit person is:

(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;

Governors must certify on appointment, and each year that they are/remain a fit and proper person. If circumstances change, so that a governor can no longer be regarded as a fit and proper person or if it comes to light that a governor is not a fit and proper person, they will be suspended from being a governor with immediate effect pending Chair's investigation (detailed below). Where it is confirmed that a governor is no longer a fit and proper person, their membership of the council of governors will be terminated with immediate effect.

Governors should:

- Comply with the provisions of the eligibility criteria for governors, set out within the Trust's Constitution paragraph 13 and Annex 6, throughout their term(s) of office. These include the above criteria to be a 'fit and proper person'.

## **5. The Nolan Principles**

Governors are expected to comply with the 7 Nolan principles set out below:

(i) **Selflessness:** holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

(ii) **Integrity:** holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

(iii) **Objectivity:** in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

(iv) **Accountability:** holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(v) **Openness:** holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(vi) Honesty: holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

(vii) Leadership: holders of public office should promote and support these principles by leadership and example.

## **6. Representation**

Governors represent the members who elected them or the bodies which appointed them. However, they are not delegates and should contribute to collective decision making after hearing the views of other members of the Council or the Board of Directors (as appropriate).

Governors should not seek to speak on behalf of bodies they may happen to belong to but which are not their appointing body.

## **7. Conflicts of Interest**

All Governors are required to list all relevant interests which may reasonably be thought to influence their actions in the performance of their duties. It is the responsibility of the Governor to inform the Trust Secretary immediately in writing of any changes to their interests.

Governors should ensure that:

- any actual or potential conflicts of interest are made known to the Head of Corporate Affairs and/or the Chair as soon as they arise;
- if a matter in which they have a material interest is discussed, they take no part in the discussion;
- if a matter in which they have a material interest is put to the vote, they take no part in the voting.

## **8. Breaches of the Code of Conduct (policy for removal of a Governor)**

### **a. Local resolution**

If it is believed that a member of the Council of Governors has breached the Code of Conduct it will, in most circumstances, be preferable for discussion to take place with the Head of Corporate Affairs to agree local resolution to the issue.

If local resolution is not possible or ineffective, the matter should then be raised at the earliest opportunity either in writing or verbally with the Chair and/or the Lead Governor. The following process will then be followed in seeking to resolve any concerns, difficulties or disputes in a constructive way.

### **b. Chair's Investigation:**

- The Chair, supported by the Head of Corporate Affairs, will investigate the matter raised. This will include discussion with the Lead Governor, other Governors and/or members of staff, as appropriate.
- The Chair will notify the Governor concerned in writing of the details of the alleged breach of the Code of Conduct. The communication will set out a timeframe in which the matter is to be addressed.
- During the investigation, the Chair will invite the Governor concerned to meet with him/her to discuss the matter. It may be considered appropriate to involve the Lead Governor, if agreed

by all parties. The governor will also be permitted to be accompanied by another individual at this meeting. The Head of Corporate Affairs will record minutes of the meeting.

- If the Governor concerned does not accept an invitation from the Chair to meet and discuss the matter, the Chair will continue to complete his/her investigation considering all other information available.
- The outcome of the Chair's investigation will conclude, either:
  - no further action necessary, or
  - a letter explaining the breach and advice on future conduct is to be issued,

or, if the governor concerned has committed a serious breach of the code of conduct, or acted in a manner detrimental to the interests of the Foundation Trust and it is considered that it is not in the best interest of the Foundation Trust for them to continue as a Governor,

- recommend to the Council of Governors that the Governor concerned is removed from Office.
  - The Chair will write to the Governor concerned confirming the outcome of his/her investigation within the previously stated timeframe.
  - Where the Governor is in disagreement with the outcome, they may appeal the outcome of the investigation by setting out his/her reasons in writing to the Senior Independent Director or another independent assessor to be mutually agreed within 10 working days from receipt of the Chair's letter.
  - The Senior Independent Director or Independent Assessor will conduct an independent investigation and report his/her findings to the Governor concerned, the Chair, the Lead Governor and the Head of Corporate Affairs.
  - During the Senior Independent Director/ Independent Assessor's investigation, he/she will invite the Governor concerned to meet with him/her to discuss the matter. The Head of Corporate Affairs will record minutes of the meeting.
  - The Senior Independent Director/ Independent Assessor will report on the outcome of their investigation to the Governor concerned, the Chair, the Lead Governor and the Head of Corporate Affairs.
  - A decision on reporting the outcome of the investigation to the Council of Governors will be taken by the Senior Independent Director/ Independent Assessor on a case by case basis pending the action to be taken following the conclusion of the investigation.
  - The Senior Independent Director/ Independent Assessor's decision will be final and the outcome will be based upon the options previously stated:
    - no further action necessary, or
    - a letter (explaining the breach and advice on future conduct) is to be issued,
- or, if the governor concerned has committed a serious breach of the code of conduct, or acted in a manner detrimental to the interests of the Foundation Trust and it is considered that it is not in the best interest of the Foundation Trust for them to continue as a Governor,
- recommend to the Council of Governors that the Governor concerned is removed from office.



### **c. Recommendation to the Council of Governors**

If a recommendation for removal from office is made to the Council of Governors the following process will be followed:

- The Chair or Head of Corporate Affairs would convene an extra-ordinary meeting of the Council of Governors to be held in private. The Governor concerned would be excluded from this meeting but would be afforded the opportunity to provide a statement to the Council of Governors.
- The Council of Governors will consider the outcome of the Chair's investigation and if appealed, the outcome of the Senior Independent Director/ Independent Assessor's investigation and a vote on the recommendation will take place.
- Annex 6, paragraph 12 of the Trust's Constitution states:

'A Governor may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting, on the grounds that:

- they have committed a serious breach of the code of conduct, or
  - they have acted in a manner detrimental to the interests of the Foundation Trust, and
  - the Council of Governors considers that it is not in the best interest of the Foundation Trust for them to continue as a Governor.
- The outcome of the vote will be applied with immediate effect and the Governor will be informed of the outcome immediately. This will be followed up in writing.
  - The decision of the Council of Governors is final.