

**PROPOSALS TO REVIEW THE TRUST'S CONSTITUTION****1 Introduction**

- 1.1 The Trust's Constitution was drawn up in 2004 and although it has been slightly amended on three occasions, it is timely to undertake a thorough review and redraft in response to a number of internal and external drivers.
- 1.2 In accordance with the Trust's Constitution, amendment of the Constitution requires approval of Monitor once it has been approved by three-quarters of the Governors' Council at a meeting convened for that purpose (STH Constitution, Section 20).

**2 Key Drivers**

- 2.1 To make appropriate preparations to update the revised Constitution incorporating necessary amendments as per the Health and Social Care Act (2012) to ensure the Trust's readiness to seek approval for a further revision to implement relevant legislative proposals at the point of commencement. (June FTN newsletter predicts the proposals relating to foundation trust boards, directors and governors will be enacted from April 2013).

- 2.2 To consider the adequacy and appropriateness of key provisions in the Constitution, particularly:

**2.2.1 Constituencies**

Under the current Constitution there are 3 membership constituencies:

- Public – residents within the Sheffield City Council local authority boundary.
- Patient – all patients (or carers for a patient) who have been cared for by the Trust within the past 5 years.
- Staff – all members of staff (divided into 5 classes – medical and dental; nursing and midwifery; allied health professionals; administrative and clerical; and ancillary).

Issues for consideration:

- How to widen representation of the Public Constituency membership to fully reflect the population the Trust serves, in particular the population covered by tertiary services that are regional or sub-regional such as North Trent?

**2.2.2 Governors' Council**

Under the current Constitution the Governors' Council comprises:

- 12 Public Governors (elected from the public constituency).
- 7 Patient Governors (elected from the patient constituency).
- 5 Staff Governors (1 Governor from each staff constituency class)
- 13 Partner Governors (appointed by partner organisations: 2 x NHSS; 1 x non-Sheffield PCT; 2 x Sheffield City Council; 1 x University of Sheffield; 1 x Sheffield Hallam University; 1 x Sheffield College; 1 x South Yorkshire Police; 1 x Voluntary Action Sheffield; 1 x Sheffield Health and Social Care Foundation Trust; 1 x Sheffield First Partnership; 1 x NHS Yorkshire and the Humber.)

Issues for consideration:

- How to ensure appropriate representation of a wider Public Constituency membership on the Governors' Council, (see 2.2.1).
- Balancing the need to strengthen representation with the need to ensure effective debate and decision-making in view of the role of the Governors' Council going forwards, is the size of the Governors' Council appropriate?
- Following the integration of Community Services staff into the Trust in April 2011, are the Staff Constituency classes still appropriate and does the number and distribution of Staff Governors ensure fair and effective representation?
- Are the named partner organisations still relevant to the Constitution? Is the number and distribution of Partner Governors appropriate?

### 2.2.3 Governors

The current Constitution includes a number of provisions concerning the Governors that would benefit from review.

Issues for consideration:

- Clarification of Governor roles and responsibilities. Specifically, how to build and maintain an effective relationship between the Chair and the Governors; the Governors and the CEO and other Executive Directors; the Governors and the Non-Executive Directors, including the Senior Independent Director?
- The appropriateness of provisions regarding Governors' Terms of Office.
- Induction and ongoing training/development for Governors.

### 2.2.4 Dispute Resolution

Procedures to resolve disputes between the Board of Governors and the Governors' Council are outlined in Annexe 6 of the current Constitution. However the procedures were due for review within 12 months of the formation of the Trust (Section 5).

Issue for consideration:

- To review the dispute resolution procedures and revise accordingly.

### 2.2.5 Board of Directors

The current Constitution includes a number of provisions concerning the Board of Directors that would benefit from review.

Issues for consideration:

- How many Executive Directors and Non-Executive Directors are appropriate for the requirements of the organisation and complies with Monitor's Code of Governance Board composition requirements (Sections A3.2 and C2.2)?
- What is the most appropriate Term of Office for Non-Executive Directors?

2.3 To ensure consistency between the revised Constitution and the Trust's Standing Orders, Standing Financial Instructions and Schemes of Reservation and Delegation which are being separately reviewed and updated and are scheduled for completion by January 2013.

2.4 To ensure a fit with Monitor's Model Core Constitution (2008) and the Code of Governance (2012).

## 3 **Associated workstreams**

In addition, there is a need to review and update or develop relevant complementary policies and procedures, specifically:

- Governors' Council Terms of Reference
- Governor Role Description
- Lead Governor Role Description
- Governors' Forum Terms of Reference
- Governors' Forum Convenor Role Description
- Governor Code of Conduct
- Governor Register of Interests
- Governor Induction and Development Training
- Nominations Committee Terms of Reference

## 4 **Background**

The Trust Secretary, the Foundation Trust Membership Manager and the Assurance Manager have met on two occasions to scope proposals to review the Constitution. One meeting was attended by a partner from DAC Beachcroft to take advantage of the expertise and intelligence DAC Beachcroft has built up advising and supporting other Trusts which have developed or amended their Constitutions.

## 5 **Proposal**

It is proposed that the review shall run over 2 phases:

Phase 1: To update the current Constitution incorporating developmental aspects outlined in Section 2.2 and complementary work outlined in Section 3.

Phase 2: To update the revised Constitution in line with the Health and Social Care Act once enacted.

## 6 Recommendations

- 6.1 To establish a joint task-and-finish committee of the Board and Governors' Council to agree the review approach, to provide oversight of the review process, to approve proposals to redraft the Constitution and relevant complementary documents and to approve proposals for any pre-emptive revisions in readiness for commencement of relevant provisions of the Health and Social Care Act.
- 6.2 Taking advantage of Constitution review offered by DAC Beachcroft, undertake a review and redraft of the Trust's Constitution.
- 6.3 To undertake a review and redraft of complementary policies and procedures.
- 6.4 To secure appropriate approval for a redrafted Constitution within the Trust and by Monitor.
- 6.5 Provisional timetable:

1	<p>Paper outlining proposals to review the Trust's Constitution and complementary work to:</p> <ul style="list-style-type: none"> <li>• Governors' Council - 17th July 2012</li> <li>• Board of Directors – 18th July 2012</li> </ul>
2	<p>Set up Constitution Review Steering Group (CRSG) and draw up Terms of Reference:</p> <ul style="list-style-type: none"> <li>• Membership (Provisional): Neil Riley, Chair (Trust Secretary) Vic Powell (Senior Independent Director) John Donnelly (Chair Audit Committee) John Laxton (Governors Forum Convenor) 1 x Public / Patient Governor 1 x Staff Governor (tbc) 1 x Partner Governor (tbc) In attendance: Jane Pellegrina (Foundation Trust Membership Manager) Andy Challands (Assurance Manager)</li> <li>• Meetings (Provisional) w/c 6th August 2012 w/c 3rd September 2012 w/c 22nd October 2012</li> </ul>
3	<p>Review led by Trust Secretary supported by Foundation Trust Membership Manager and Assurance Manager – August to October 2012.</p>
4	<p>Chairman and Chief Executive to receive regular verbal updates from Trust Secretary.</p>
5	<p>Final recommendations of CRSG, redrafted Constitution and complementary documentation for approval by Chairman and Chief Executive by w/c 29<sup>th</sup> October 2012.</p>
6	<p>Final recommendations of CRSG, redrafted Constitution and complementary documents submitted for approval to</p> <ul style="list-style-type: none"> <li>• TEG – on 7th November, 2012</li> <li>• Governors' Council on 20th November, 2012</li> <li>• BOD – on 21st November, 2012</li> </ul>
7	<p>Submit redrafted Constitution to Monitor for approval.</p>

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July 2012