



COUNCIL OF GOVERNORS (Urgent Business) - PART 1
TUESDAY, 24th SEPTEMBER 2019 AT 1:30PM-1:40PM
TRAINING ROOM 1, EDUCATION & TRAINING CENTRE

AGENDA

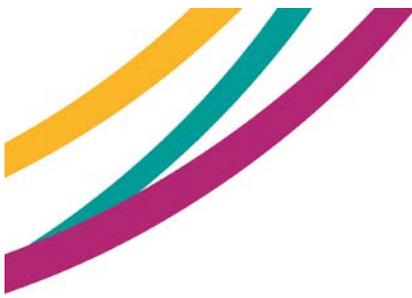
FORMAL BUSINESS

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| 1. | Welcome & Apologies | Chair |
| 2. | Declarations of Interest | Chair |

WELL LED

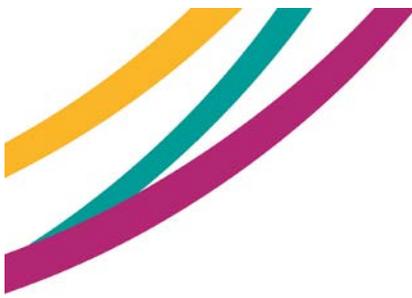
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| 3. | To agree a proposed change to the Trust's Constitution (Attached) | Chair |
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Close



Item Title	Proposed change to the Trust's Constitution
Date of Meeting	Council of Governors – 24 th September, 2019
Accountable Executive	Susan Gilby, Chief Executive Officer
Author(s)	Debbie Bryce, Interim Trust Secretary
Alignment to Board Assurance Framework risk	CR 7 - Failure to maintain robust corporate governance and overall assurance
Alignment to CQC Domains	Well Led
Document Previously Considered by:	Audit Committee 17 th September, 2019 (Board of Directors, 24 th September 2019)
Summary	This report is intended to outline a proposed change to the Trust's Constitution to alter the Board of Directors' composition by increasing the number of Non-Executive Directors by one, from five to six, to address the Board's balance between Non-Executive Directors and Executive Directors', in order to comply with the <i>NHS Foundation Trust Code of Governance (2014)</i> .
Recommendation(s)	1. The Council of Governors is asked to agree a change to section 13.2.1.2 of the Trust's Constitution to increase by one, from five to six, the number of Non-Executive Directors on the Board of Director's to enable a more effective unitary Board (<i>subject to the prior agreement by the Board of Directors on 24th September 2019</i>).
Corporate Impact Assessment:	Legal and regulatory impact: Financial impact: Patient Experience/Engagement: Risk & Performance Management: NHS Constitution/Equality & Diversity/Communication: Y

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1. Introduction

The Trust outlined in its 2018-19 Annual Governance Statement that the Board intend to redress the number imbalance between Executive Directors and Non-Executive Directors. Board composition and Board balance has now been considered and there was agreement at the Governors' Nomination Committee in August to increase the number of Non-Executive Director's by one, from five to six. A subsequent change is now required to the Trust's Constitution, which will be considered by the Audit Committee and Board of Director's and then approval sought from the Council of Governors, as per the requirements of the *Health & Social Care Act 2012*.

2. The NHS Foundation Trust Code of Governance (2014)

The Trust seeks to work to the *NHS Foundation Trust Code of Governance* on a *comply or explain* basis. This Code outlines best practice in corporate governance for Foundation Trusts.

Provision B.1.2 of the Code states that:

B.1.2. At least half the board of directors, excluding the chairperson, should comprise non-executive directors determined by the board to be independent.

The Trust has considered its Board balance in relation to the Code of Governance and acknowledges that the Trust's Constitution currently outlines an imbalanced Board based on the number of Executive and Non-Executive Directors contained within section 13.2.

3. The Countess of Chester Hospital NHS Foundation Trust's Constitution

Section 13.2 of the Trust's Constitution outlines the Board of Directors' composition currently as: the Chairman, five Non-Executive Directors and six Executive Directors, as follows:

13.2. The board is to include:

13.2.1. the following non-executive Directors:

13.2.1.1 a Chairman, who is to be appointed (and removed) by the Council of Governors at a Regular Council Meeting;

13.2.1.2 five other non-executive Directors who are to be appointed (and removed) by the Council of Governors at a Regular Council Meeting;

in each case subject to the approval of a majority of the Council of Governors (in the case of an appointment) present and voting at the meeting, and three-quarters of all of the members of the Council of Governors (in the case of a

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removal) voting at the meeting;

13.2.2. the following executive Directors:

13.2.2.1. a Chief Executive (who is the accounting officer), who is to be appointed (and removed) by the non-executive Directors, and whose appointment is subject to the approval of a majority of the members of the Council of Governors present and voting at a meeting;

13.2.2.2. a Finance Director, a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984), a registered nurse or registered midwife, and two other executive Directors, all of whom are to be appointed (and removed) by a committee consisting of the Chairman, the Chief Executive and the other non-executive Directors.

As provision B1.2 of the Code of Governance states that, 'at least half the board of directors, excluding the chairperson, should comprise non-executive directors', then, in order to comply with the Code, the Board would either need to decrease its voting Executive composition by one or increase its Non-Executive composition by one. It has been considered and agreed that the latter is preferred.

4. Recommendation

4.1 The Council of Governors is asked to agree a change to section 13.2.1.2 of the Trust's Constitution to increase by one, from five to six, the number of Non-Executive Directors on the Board of Director's to enable a more effective unitary Board (*subject to the prior agreement by the Board of Directors on 24th September 2019*).

NB: As per the requirements of the Constitution, approval is required by three quarters of the Council of Governors present and voting at a meeting of the Council of Governors.

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