

Trust Board Meeting

ITEM: 14
Doc: 10

DATE: 25 April 2012

TITLE: Board Committees – membership and terms of reference – Nominations & Remuneration and Finance & Development

SPONSOR: Joe Liddane

REPORT FROM: David Seabrooke

PURPOSE OF REPORT: To approve terms of reference and confirm membership of the Nominations & Remuneration Committee and new Finance & Development Committee.

EXECUTIVE SUMMARY:

At its meeting on 28 March, the Board agreed to form a new Finance & Development Committee to improve the board's oversight of strategic finance. The report considered and eliminated the option of a conventional Finance Committee; the Board will continue to lead on the scrutiny of monthly outturn information.

This report puts forward terms of reference for this new body and confirms the constitution of the Nominations & Remuneration Committee, which will be responsible for determining both Executive appointments and pay. The Board determines the committee's core membership but in relation to overseeing executive appointments, all non-executives are members.

The 28 March board report considered the wider consequences of any change to the existing arrangements and listed the following criteria:

- To what extent does the option address identified opportunities to improve the effectiveness of Board scrutiny?
- To what extent does it engage all Directors in fulfilling their assurance duties (versus risk creating a "kitchen cabinet")?
- To what extent is it efficient – in terms of meeting time and preparation time?
- To what extent might it create a discontinuity in our governance processes at a time when other significant changes are just bedding down?

Reference to some of the comments about internal governance arrangements from the Francis report is made in the Declaration section below.

The appointment of a Finance & Development Committee will mean the board has four committees for the first time and this prompts a review of the non-executive membership of the range of committees. The Executive Committee has recently clarified its meeting arrangements and the Finance & Development Committee will hold the QIPP board to account.

The proposed future membership and expected frequency of each committee is shown in the table at the end of the report.

PROPOSED ACTION:

1. That the terms of reference and membership of Finance & Development and of Nominations & Appointments Committee be approved
- 2 That revised memberships of all the board's committees be approved

APPENDICES:

Appendix 1 – Draft terms of reference for the Finance & Development Committee

Appendix 2 – Draft terms of reference for the Nominations & Remuneration Committee

DECLARATION

In completing this report, I confirm that the implications associated with the proposed action shown above have been considered – any exceptions are reported in the Supporting Information:

Implications for the NHS Constitution, CQC registration

Financial, regulatory and legal implications of proposed action

Annual Plan/IBP

Moving Ahead – how does this report support any of the Trust's 5 Strategic Goals

Risk management: Two Quotes from the Governance chapter of the Mid Staffordshire NHS Foundation Trust Inquiry “Francis” report

12 ... *there was no effective governance. There was a very poor flow of information. It was very poor information anyway, there was muddled data collection, there were very complicated, incomprehensible structures of committees and it was very unclear which committee reported to which or what the functions were. There were few terms of reference.* (former Chair of Mid Staffs NHSFT)

29. These critical views offered by some of those who actually participated in the devising of the structure were confirmed in rather more blunt terms by the current Chief Executive, who told me:

The governance system in Mid Staffs, if you looked at the chart that was produced as part of the flow of decision-making, the different committees, it looked as if you had thrown half a dozen spiders on to a piece of paper, having been dipped in ink, it was so confusing.

A lack of focus ... focusing on the wrong things rather than sticking to the knitting... it is a hospital, we care for patients. It is a relatively straightforward job and hospitals exist to care [for] and heal patients...”

Supporting Information

1. Finance & Development Committee

- 1.1 The Park Hill report on Governance which was presented in January observed that Finance Committees are becoming increasingly regarded as good practice in the NHS and in foundation trusts. Peter Freedman's report to the board, approved on 28 March, rehearsed a range of options for the role of a new committee – the board agreed that the remit would be policy development and the more detailed scrutiny of:

- Medium to long term CIP plans (years 2-5) – including their adequacy and robustness
- Organic revenue growth plans and business cases (e.g. major pricing negotiations, bids to provide additional services, private patient services)
- The Long Term Financial Model
- Proposals for mergers, acquisitions or joint ventures
- Capital expenditure projects that require Board approval within the current chart of authority
- The embedding of Service Line Management throughout the Trust
- Opportunities to help the full Trust Board continuously improve the effectiveness of its direct scrutiny, on a monthly basis, of financial performance (income & expenditure, balance sheet, cash flow, service line reporting)

- 1.2 Suggested terms of reference for this committee are **attached as appendix 1**. The Executive Committee has been reviewing the range of meetings and it is expected that the Finance & Development Committee will hold the QIPP board to account on the formulation of future CIP schemes, business development and the delivery of major growth and development projects.

2 Nominations & Remuneration Committee

- 2.1 This committee is a requirement of the National Health Service Trusts (Membership and Procedure) Regulations 1990 (Regulations 3 (3), 17 & 18) in relation to the appointment of the Chief Executive and Executive Directors.

- 2.2 It is proposed that this committee will also discharge the non-executives' responsibilities to make recommendations to the Board on Executive pay and terms of service. The guidance on this provides as follows:

"The Remuneration and Terms of Service Committee

Every NHS organization must have a Remuneration and Terms of Service Committee reporting to the Board. Its task is to advise the Board about appropriate remunerations and terms of service for the Chief Executive and other senior staff.

In formulating their recommendations for the Board Committee, the Committee takes into account the circumstances of the organization, the size and difficulty of the job benchmarked against other NHS organizations, the performance of the individual and national guidance as appropriate.

The membership of the Remuneration and Terms of Service Committee consists of the Board Chair and at least two other non-executives. The Chief Executive is usually in attendance but should not be present when his or her own remuneration is to be discussed.

The purpose of the Committee will be to advise the Board about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors including:




- (i) all aspects of salary (including any performance-related elements/bonuses);*
- (ii) provisions for other benefits, including pensions and cars;*
- (iii) arrangements for termination of employment and other contractual terms.*

- 2.3 The Monitor Code of Governance details similar requirements for foundation trusts in Section E, with much emphasis on the control of bonus payments. The Code states that the layer of staff reporting to Executives should be within the committee's purview and that the committee should have delegated authority, rather than be advisory.
- 2.4 The Board's Nominations & Remuneration Committee will work in conjunction with the Council of Governors who will appoint a similar committee to advise on non-executive remuneration and appointments. It is recommended that the two committees meet twice-yearly to review the overall composition and performance of the Board of Directors.
- 2.5 Proposed Terms of reference for the Board's Nominations & Remuneration Committee are set out as **appendix 2** to the report.

3 Memberships of the Board's Committees

- 3.1 The proposed composition of all the Board's committees is being consulted upon and will appear in the table below:

Non-executive/ Committee	Audit & Risk (6)	Quality (10)	Nominations & Remuneration (4)	Finance & Development (4)
Liddane				
Aitken				
Charlesworth				
Rubenstein				
Freedman				
Dacre				
New appointment				

-  Member
  Chair
 (x)
 expected number of meetings/year
-  Member of Nominations & Remuneration for Executive appointments

- 3.2 It is advisable to review the memberships regularly.

Appendix A – Finance & Development Committee Terms of Reference

WHITTINGTON NHS TRUST FINANCE AND DEVELOPMENT COMMITTEE TERMS OF REFERENCE

1. Authority

1.1 The Finance and Development Committee is constituted as a standing committee of the Trust Board. Its constitution and terms of reference are set out below and can only be amended with the approval of the Trust Board.

1.2 The Committee is authorised by the Trust Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee of the Trust and all employees are directed to cooperate with any request made by the Committee.

1.3 The Committee is authorised by the Trust Board to secure the attendance of individuals and authorities from outside the Trust with relevant experience and expertise if it considers this necessary.

2. Purpose

2.1 The Finance and Development Committee shall undertake on behalf of the Trust Board objective scrutiny of the Trust's financial plans, and proposed major investment decisions. The Board may request that the Committee reviews specific aspects of financial performance where the Board requires additional scrutiny and assurance.

3. Membership

3.1 The Committee shall be appointed by the Trust Board and be composed of:

Non Executive Directors appointed by the Board

Chief Executive

Director of Finance

Director of Strategy

Director of Planning & Programmes

3.2 One Non Executive member of the Board will be appointed as the Chair of the Committee by the Trust Board.

3.3 A quorum shall be three members, at least two of whom should be Non Executive members of the Trust Board.

3.4 Members should make every effort to attend all meetings of the Committee and will be required to provide an explanation to the Chair of the Committee if they fail to attend more than two scheduled meetings in a calendar year. In this event, the Chair of the Committee will consider the appropriate action to be taken, including the option of recommending to the Trust Board the removal of the member from the Committee. The Committee Secretary will monitor attendance by members and report this to the Chair of the Committee on a regular basis.

4. Attendance

4.1 All other Non Executive Directors shall be welcome to attend and all members of the Trust Board will receive papers to be considered by the Committee. Executive Directors shall be invited to attend for specific agenda items as appropriate.

4.2 The Committee may invite other Trust staff to attend its meetings for specific agenda items as appropriate.

4.3 The Director of Finance will ensure the provision of a Secretary to the Committee and appropriate support to the Chair and committee members. This shall include agreement of the agenda with the Chair and the Director of Finance, collation of papers, taking the minutes and keeping a record of matters arising and issues to be carried forward and advising the Committee on pertinent areas.

5. Frequency of meetings

5.1 Meetings will normally be held quarterly. Additional meetings may be arranged to discuss specific issues but any such meetings should be infrequent and exceptional.

6. Reporting

6.1 The Chair of the Finance and Development Committee will provide an oral report to the Trust Board after each meeting, highlighting key issues arising from the monthly finance report for discussion and any other items requiring decision. The approved minutes of the Committee's meetings will be circulated to all Trust Board members for information. The Chair of the Committee will draw to the attention of the Board any issues that require disclosure to the full Board, including those that are considered to affect the financial standing of the Trust or require executive action.

7. Review

7.1 The terms of reference shall be reviewed by the Finance and Development Committee and approved by the Trust Board at least annually.

8. Duties

8.1 Scrutinise the development of the Trust's annual plan and long term financial strategy and plans (including both revenue and capital plans), including the underlying assumptions and methodology used, ahead of review and approval by the Trust Board.

8.2 Review at the request of the Trust Board specific aspects of financial performance where the Board requires additional scrutiny and assurance, while recognising that the primary ownership and accountability for the Trust's financial performance rests with the full Trust Board.

8.3 Scrutinise on behalf of the Trust Board the robustness of the forward Cost Improvement Plan performance and review of key risks to the achievement of current and future years' Cost Improvement Plans. Conduct an annual review of service line reporting and discuss any issues relating to investment or disinvestment in services.

8.4 Approve and keep under review, on behalf of the Trust Board, the Trust's investment and borrowing strategy and policies.

8.5 Evaluate, scrutinise and approve the financial validity of individual investment decisions, including through the review of Outline and Final Business Cases. Business cases will usually be referred to the Committee following initial review by executive committee with input from the. The following investment decisions shall be subject to review by the Committee:

All capital schemes (including leased assets and property) with an investment value in excess of £1 million.

All revenue investment proposals with a cost implication in excess of £3 million over three years

All proposed asset disposals where the value of the asset exceeds £1 million.

8.6 Review post-implementation investment audits undertaken by or on behalf of the Trust. These should be carried out 12 months after business case approval.

8.8 Approve the establishment of any joint ventures or other commercial partnerships including the incorporation of startup companies. Make recommendations to the Trust Board in relation to any due diligence, warranties, assignments, investment agreements, etc. related to joint ventures, commercial partnerships or incorporation of startup companies.

8.9 Examine any matter referred to the Committee by the Trust Board.

Appendix 2 – Terms of Reference for the Nominations & Remuneration Committee

Whittington Health

NOMINATIONS AND REMUNERATION COMMITTEE TERMS OF REFERENCE

1. Establishment

1.1 The Nominations and Remuneration Committee is a Committee of the Trust Board of Directors.

2. Purpose

2.1 The Nominations and Remuneration Committee reviews and makes recommendations to the Board of Directors on the composition, balance, skill mix and succession planning of the Board. It recommends to the Board of directors the appointment of Executive Directors.

2.2 It has responsibility for recommending to the Board the overall policy for the remuneration of all Trust staff.

2.3 It approves the remuneration packages for the Chief Executive, the Executive Directors and other senior managers reporting directly to the Chief Executive.

3. Membership

3.1 The committee will comprise of non-executive directors appointed by the Board. However, when determining Executive appointments, the Committee shall consist of all Non-Executive Directors of the Board of Directors. The quorum shall be three members.

3.2 The chair of the Committee shall be the Chair of the Board of Directors.

4. Attendance at Meetings

4.1 The Chief Executive will attend all meetings, except when his/her own performance and remuneration are under consideration. The Director of People shall be in attendance when invited by the Committee and shall provide the Committee with such information as they require. The Company Secretary shall be the secretary to the meeting. Other Officers will be invited to the Committee as requested by the members.

5. Frequency of Meetings

5.1 Meetings of the Committee will be held at least once a year.

5.2 Meetings will be convened by the Chair and can also be requested by the Chief Executive or his/her nominated deputy.

6. Authority

6.1 The Committee is authorised by the Board to investigate any activity within its terms of reference.

6.2 The Committee is authorised by the board to obtain outside legal or other independent advice, and to secure the attendance of external individuals with relevant experience and expertise if it considers this necessary.

7. Duties

7.1 To regularly review the composition and effectiveness of the Board of Directors and to make recommendations to the board to improve its own governance and effectiveness. To ensure appraisals are undertaken for all members of the Board of Directors.

7.2 To ensure a succession plan is in place and appropriate actions are taken to ensure the continued leadership of the Trust.

7.3 To ensure an appropriate process is in place for the appointment of the Chief Executive and Executive Directors and to recommend the appointment of Executive Directors to the Board of Directors and once foundation status is in place, the preferred candidate as Chief Executive to the Council of Governors.

7.4 Once foundation status is in place, in conjunction with the Council of Governors' Appointments Committee and the Council of Governors, ensure that the process for appointing the Trust Chair and Non-Executive Directors, and the process for appointing the Chief Executive and Executive Directors are aligned.

7.5 To maintain an overview of the relationship between total remuneration and that of the market equivalents for the Chief Executive, the Executive Directors and other senior managers reporting directly to the Chief Executive. The Committee will, where appropriate, commission others to collect market information on salaries and other forms of reward to ensure it is sufficient to attract, retain and motivate the relevant individuals, whilst ensuring it is not more than is necessary for this purpose.

7.6 To determine remuneration and terms of service for the Chief Executive, the Executive Directors and other senior managers reporting directly to the Chief Executive which will include:

- All aspects of salary (including any performance related element / bonuses);
- Provisions for other benefits, including pensions and cars;
- Agreement of contracts of employment and if applicable terms of office;
- Arrangements for termination of employment and other contractual terms, including the proper calculation and scrutiny of termination payments taking account of such national guidelines as is appropriate.

7.7 To consider a report annually from the Chair on the performance of the Chief Executive and from the Chief Executive on the performance of Executive Directors and determine any adjustment to salary and PRP

7.8 Once foundation status is in place to agree the annual inflationary uplift on pay and reward of other staff throughout the Trust .

8.Review date

These terms of reference will be reviewed at least every two years