### Title
Role of the Lead Governor

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<th>Purpose</th>
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<td>Paper CoG2015.02 on the Role and Appointment Process for the Lead Governor was presented on 21 July 2015, following which recommendations made in Paper CoG2015.09 were approved by the Council of Governors at its inaugural meeting held on 21 October 2015.</td>
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Role of the Lead Governor

1. Background

1.1. Under the Constitution, the Council of Governors is required to nominate a lead governor, to facilitate direct communication between Monitor [now NHS Improvement] and the Council of Governors in the limited circumstances where it may not be appropriate to communicate through the normal channels.

1.2. Appendix B of Monitor’s NHS Foundation Trust Code of Governance suggests the following specific elements to the lead governor role:

- To facilitate communication between Monitor and the Council of Governors, in particular where it would not be appropriate for this to occur through normal channels;
- To be a point of contact should Monitor have concerns regarding board leadership provided to the Trust;
- To be a point of contact should Monitor have concerns that appointments, elections or other material decisions have been inappropriate or not complied with the Trust’s Constitution; and
- To initiate communication where the Council or individual governors wish to contact Monitor.

1.3. The guidance also notes that “[the] lead governor should take steps to understand Monitor’s role, the available guidance and the basis on which Monitor may take regulatory action.”

1.4. Under Annex 8 of Appendix 2 of the Constitution, the lead governor may also have a role in the event of a dispute between the Council of Governors and the Board of Directors. Annex 8 of Appendix 2 states that:

“If the Chairman is unable to resolve the dispute he/she shall agree with the Lead Governor the appointment of a joint special committee constituted as a committee of the Board of Directors and a committee of the Council of Governors, both comprising equal numbers, to consider the circumstances and to make recommendations to the Council of Governors and the Board of Directors with a view to resolving the dispute. The Chairman and Lead Governor shall agree whether the joint special committee shall be chaired by an independent person to facilitate resolution.”

1.5. The role and appointment process for the lead governor was discussed by governors at their meeting held on 21 July 2015, and subsequently on the Governors Web Forum.

1.6. At the inaugural meeting of the Council of Governors held on 21 October 2015, it was agreed to make an appointment of lead governor for one year, on the basis that the role would be limited to that formally defined by Monitor [now NHS Improvement].

1.7. At that time, Council agreed to review the role of lead governor after a year, i.e. at the Council of Governors’ meeting in autumn 2016.

1.8. Anita Higham, Public Governor, Cherwell was appointed to the role of lead governor in November 2015, for a term of one year.

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1.9. At its meeting on 28 April 2016, Council indicated that it wanted to start considering whether it would favour any broadening of the role of lead governor, and asked that a paper be submitted to its meeting on 1 July 2016.

1.10. It is open to a Trust to choose to broaden the role of lead governor, provided that it does not undermine the position that the Council of Governors as a whole has responsibilities and powers under statute and not individual governors.

1.11. Any expansion of the role of lead governor should be agreed in consultation between the Council of Governors and the Trust Board, and any change to the role would trigger a new election.

1.12. The purpose of this paper is to aid the Council of Governors as it considers whether, and if so how, it might wish to broaden the role of lead governor.

2. Role of the Lead Governor

2.1. Monitor [now NHS Improvement] had not initially intended or envisaged any role for the lead governor beyond the important one of providing a quick and clear conduit for communication between governors and the regulator, when necessary.

2.2. Monitor [now NHS Improvement] do however endorse a Foundation Trust's right to choose to expand the role.

2.3. There is known to be variation in Trusts' definition of the role of lead governor.

2.4. Opportunities have been taken to learn from how other Trusts have delineated the role of lead governor.

2.5. In particular, members of the Council heard from governors from Frimley Park, Bristol and Southampton at a Seminar held in March 2016.

2.6. The Trust Secretary has taken further informal soundings from other Trusts, and these echo the findings of research commissioned by NHS Providers in 2015\(^3\), about the role of lead governor in practice.

2.7. The research commissioned by NHS Providers showed that just over half (54%) of the 63 Trusts surveyed (representing 41% of all FTs at the time) had expanded the role of lead governor to include some additional responsibilities.

2.8. 46% of the Trusts surveyed had not given the lead governor any additional responsibilities.

2.9. Of those Trusts whose lead governor did have one or more additional responsibilities, the most common (in 26 out of 34 Trusts) was:

- contribution to agenda-setting for meetings of the Council of Governors

2.10. Other additional responsibilities were less common, with the next most common being cited by 12 out of the 34 Trusts, and some responsibilities being cited by only one Trust.

2.11. Additional responsibilities cited by between at least 8 and 12 of the 34 Trusts included:

- Reviewing/promoting the effectiveness of the Council of Governors
- Regular 1:1 with the Trust Secretary (and/or Chairman)
- Liaison between the Board and the Council of Governors

Involvement in/contribution to NED appraisals
Ex officio role on Appointments Committees

3. Process for appointment to any expanded role of Lead Governor
3.1. As stated above, any change in the role of lead governor will trigger an election.
3.2. The term of the currently appointed lead governor is due to expire in November 2016.
3.3. Clearly, before any election could be held, any candidate would need to know what had been agreed to be the role of the lead governor, and the term for which the successful candidate would be appointed.
3.4. Consideration may need to be given to eligibility criteria for the role of lead governor, related to the balance of the unexpired term as governor for which the candidate would be available to serve as lead governor.
3.5. The Council might choose to stipulate other eligibility criteria, for example that the role of lead governor only be open to public governors.
3.6. Once the role of the lead governor is agreed, (in consultation between the Council of Governors and the Trust Board, if it is proposed that the role be expanded) it is recommended to follow the appointment process endorsed by the Council of Governors at its meeting on 21 October 2015, namely that selection of the lead governor be by secret ballot following self-nomination. Individuals wishing to nominate themselves would be asked to do so by submitting a brief statement to the office of the OUH NHS Foundation Trust Secretary for circulation to all governors.
3.7. The vote could then take place either:
   a. via a secret postal ballot coordinated through the foundation trust office; or
   b. at a specified date and time when governors were due to be meeting (whether in seminar, or in full Council).
3.8. Should option a. be selected, a ‘double envelope’ process can be employed such that the identities of those voting for each candidate remain secret from Trust staff.

4. Recommendation
4.1. The Council of Governors is asked to:
   - consider whether it would wish to consult with the Trust Board on an expansion of the role of lead governor; and, if so,
   - to indicate which one or more additional responsibilities it would feel to be appropriate to include in the role of lead governor; and
   - to select their preferred approach to the election process.

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