

Council of Governors Meeting: Thursday 20 October 2016
CoG2016.21

Title	Governor Vacancies and Electoral System
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Purpose	For decision.
History	Previous governor vacancies were considered in CoG 2015.01 and CoG 2016.08.

Executive Summary

1. Governor vacancies have arisen in the Non-Clinical Staff and Cherwell Public constituencies.
2. The Council of Governors has three options under these circumstances: to call a by-election, offer the seat to the next highest polling candidate or leave it vacant until the next election.
3. Given the period of time that has now elapsed it is no longer recommended that the vacant roles be offered to the next highest polling candidates in the last election.
4. Governors are asked to decide whether to hold a by-election in the two constituencies or to hold the seats vacant until the next main set of elections which are due in the summer of 2017.
5. It has been suggested that governors may wish to consider whether or not they wish to continue to use a 'first past the post' system for future elections or by-elections or to switch to a 'single transferable vote' system.

Recommendations

6. The Council of Governors is asked to **select** their preferred approach to filling these vacancies.
7. The Council of Governors is asked to **select** the electoral system they wish to use for future governor elections.

Governor Vacancies and Electoral System

1. Purpose

- 1.1. Governor vacancies have arisen in the Non-Clinical Staff and Cherwell Public constituencies.
- 1.2. This paper outlines the options for managing these vacancies so that the Council of Governors can select its preferred approach.
- 1.3. Governors should note that, under its proposed terms of the reference, the Membership, Patient Experience and Quality Committee will in the future have a role in liaising with the Membership Office regarding the arrangements for elections and by-elections.

2. New Governor Vacancies

- 2.1. Tom Mansfield, one of the two non-clinical staff governors, left the Trust in September 2016 to take on a new role at Buckinghamshire County Council. He is therefore ineligible to continue as a staff governor and has stood down from his role.
- 2.2. Teresa Allen, one of the two public governors for the Cherwell constituency has informed the Trust that she has taken on a new role with the NHS Health Research Authority. As this is an executive role with another health service body she cannot continue as a governor under the Trust's constitution and formally contacted the Trust to stand down from her role on 3 September 2016.

3. Options for Managing Governor Vacancies

- 3.1. Under Annex 5 para 4 of the Constitution (p72 and below as *Appendix 1*) the Council of Governors has three options in each case: to call a by-election, offer the seat to the next highest polling candidate or leave it vacant until the next election which is due prior to October 2017.
- 3.2. As it is now almost two years since the previous set of elections, it is not now recommended that the vacant roles be offered to the next highest polling candidates.

4. Staff Governor Vacancy

- 4.1. The non-clinical staff constituency was well contested in the 2015 elections with nine candidates standing for two seats. The third-placed candidate, Richard Soper, has already joined the Council of Governors following the retirement of Raymond James. The fourth-placed candidate received 158 votes, compared with 262, 190 and 166 votes respectively for the first three candidates.
- 4.2. By-elections are generally not recommended as they incur additional expense and turnout is often low. However, as noted above, given the time that has elapsed since the 2015 elections, it is suggested in this case that the decision should be put to the Trust's non-clinical membership through a by-election.
- 4.3. Costs of a by-election are likely to be around £3,400 for the constituency, although these will depend on the particular options that are chosen for advertising and running the election.
- 4.4. It is recommended that a by-election be held in this constituency, for the remainder of the term which applied to Tom Mansfield, so ending on 1 October 2018.

5. Public Governor Vacancy

- 5.1. The Cherwell constituency was contested by seven candidates for two seats in the 2015 elections. The third-placed candidate had 129 votes compared with 137 votes for the second-placed candidate.
- 5.2. Again, it is suggested that governors may not wish to offer the vacancy to the next highest polling candidate given the amount of time that has passed since the election itself.
- 5.3. Costs of a by-election are likely to be around £2,700 for the constituency, although these will depend on the particular options that are chosen for advertising and running the election.
- 5.4. As the unexpired period of the term of office is now less than twelve months and the successful candidate following a by-election would be expected to have less than nine months to serve, governors may in this case wish to consider leaving the seat vacancy until the next scheduled election in the summer of 2017 as allowed for by the Constitution.
- 5.5. Governors are asked to decide how they wish to manage the vacancy in the Cherwell constituency.

6. Electoral System

- 6.1. The Constitution of the Trust allows for either a 'first past the post' (FPP) or a 'single transferable vote' (STV) system to be used in governor elections and by-elections.
- 6.2. It has previously been agreed with the Trust's electoral provider that we would use the FPP system as this is simple and well understood by those voting. It has been suggested, however, that governors may wish to consider whether or not they wish to continue using this approach in future elections.
- 6.3. Some of the elections that the Trust has held, and particularly one of its recent by-elections, have had very close results that have left the winning candidate without a clear mandate. Switching to the use of an STV system would increase the probability that the winning candidate would have a clear margin of victory.
- 6.4. Our electoral provider, UK Engage, has provided a brief outline of the advantages and disadvantages of each system and this is included below (*Appendix 2*). This is not specific to governor elections but many of the key points are applicable.
- 6.5. The Council of Governors is asked to **select** the electoral system they wish to use for future governor elections.

7. Recommendations

- 7.1. The Council of Governors is asked to **select** its preferred approach to filling these two vacancies.
- 7.2. The Council of Governors is asked to **select** the electoral system they wish to use for future governor elections.

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Appendix 1

4. Council of Governors: Vacancies

Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the following provisions will apply. Where the vacancy arises amongst the elected Governors, the Council of Governors shall decide either to:

- (a) call an election within three months to fill the seat for the remainder of that term of office;
- (b) invite the next highest polling (runner-up) candidate for that seat at the most recent election, who is willing to take office, to fill the seat until the next election, for the unexpired period of the term of office; or
- (c) leave the seat vacant until the next scheduled elections are held if the un-expired period of office is less than twelve months

Appendix 2

Single Transferable Vote

What Are the Advantages and Disadvantages of Using the Single Transferable Vote (STV) System?

The Single Transferable Vote (STV) is a form of proportional representation voting system which uses preferential voting, usually in multi-member constituencies. Candidates don't need a majority of votes to be elected; all they require is a known 'quota', or share of the votes, determined by dividing the number of valid votes cast by the number of positions to be filled, plus one.

Under STV, an elector has a single vote that is expressed by ranking the candidates in preference from '1' until the elector cannot choose between the remaining candidates. As the count proceeds and candidates are either elected or eliminated, this vote can be transferred to other candidates according to the voter's stated preferences. In a Single Transferable Voting system very few votes are wasted; unlike other voting systems, particularly First Past the Post, where the votes of all but the winning candidate are wasted.

STV is arguably a much more representative and inclusive voting system as it gives voters more choice than any other system. This choice puts more power in the hands of voters, rather than the political parties: under other voting systems political parties can more easily determine who is elected. Under STV some would say that an elected representative is much more accountable to the electorate than to their party superiors.

The advantages and benefits of the Single Transferable Vote system

- Under STV fewer votes are 'wasted' In other words, fewer votes are cast for losing candidates, or unnecessarily cast for a run-away winner. This means that most voters can identify a representative that they personally helped to elect. It is argued that this in turn increases a representative's accountability.
- With STV and multi-member constituencies, parties have a powerful electoral incentive to present a balanced team of candidates in order to maximise the number of higher preferences that would go to their candidates. This goes some way to helping promote the advancement of women and ethnic-minority candidates, who are often overlooked in favour of a 'safer' looking candidate under 'first past the post'.
- STV offers voters a choice of representatives to approach with their concerns once the election is over, rather than just a single elected representative, who may not be at all sympathetic to a voter's views. Competition to provide a good service to constituents has to be a good thing.
- Elected bodies with broader representation are more likely to be both reflective of the electorate's views and more responsive to them. Parties are broad coalitions, and can be markedly split on certain key issues. With only one party person per constituency, the representatives elected may not share the views of their electorate.
- There are no safe seats under STV, meaning candidates cannot be complacent and parties must campaign everywhere; not just in marginal seats.
- When voters have the ability to rank candidates, the most disliked candidate cannot win, as they are unlikely to pick up second, third and lower-preference votes.

- By encouraging candidates to seek first, as well as lower-preference votes, the impact of negative campaigning is significantly diminished. STV also removes the need for tactical voting.
- Under STV there is a more sophisticated link between a constituency and its representative. Not only is there more incentive to campaign and work on a more personal and local level, but also, the constituencies are likely to be more sensible reflections of where community feeling lies.

The disadvantages of the STV system

- In sparsely populated areas, like the Scottish Highlands, STV could lead to enormous constituencies. This was one of the reasons cited by the Arbuthnott Commission for not recommending STV for non-local Scottish elections.
- The process of counting the results takes longer under STV, meaning that results cannot usually be declared on the same night as the vote takes place.
- A voting system that allows voters to rank candidates can be prone to what has been termed 'donkey voting', where voters vote for candidates in the order they appear on the ballot.
- Voters only tend to come into contact with candidates at election time, whereas people in the party know them much better. Some argue that a system that allows a political party to parachute its preferred candidates into safe seats is better than one that leaves the choice more in the hands of the voters.
- In large multi-member constituencies ballot papers can get rather large and potentially confusing

First Past The Post

What Are the Advantages and Disadvantages of Using the First-Past-the-Post Voting System?

First past the post or FPTP, also known as Simple Majority Voting, Winner-takes-all voting or Plurality voting is the most basic form of voting system. In its simplest form, under FPTP, voting takes place in single-member constituencies. Voters put a cross in a box next to their favoured candidate, and the candidate who gathers the most votes in the constituency or other electoral area wins the election. All other votes count for nothing. FPTP is clear, simple and decisive in the majority of cases, but many would argue that it is anything but a representative voting system. FPTP can also be used in multi-member electoral areas where voters are asked to vote for as many candidates as there are vacancies. Examples include local council elections, elections of foundation trust governors and membership organisations.

In public elections, FPTP is the second most widely used voting system in the world, after Party-List PR. It is principally used in the electoral systems that are either are, or were once, British Colonies. FPTP is currently used to elect members of the House of Commons in the UK, both chambers of the US Congress and the lower houses in both Canada and India. The use of FPTP voting systems used to be more widespread, but many countries have now adopted other alternative voting systems.

The advantages and benefits of a FPTP voting system

- It's simple to understand.
- It doesn't cost much to administer.

- It's fairly quick to count the votes and work out who has won; meaning results can be declared relatively quickly after the polls close.
- In a political environment, FPTP enables voters to clearly express a view on which party they think should form the next government.
- FPTP is ideally suited to a two-party system and generally produces single-party governments, although the 2010 UK General Election was an obvious exception
- Single-party governments by and large don't have to rely on support from other parties to pass legislation, though as the UK has found that is not always necessarily the case as the current Coalition Government demonstrates.
- Some would argue that FPTP voting systems encourage broad-church centrist policies and discourage extremist points of view

The disadvantages and shortcomings of FPTP voting systems

- Representatives can get elected with small amounts of public support, as the size of the winning margin is irrelevant: what matters is only that they get more votes than other candidates.
- FPTP encourages tactical voting, as voters often vote not for the candidate they most prefer, but against the candidate they most dislike.
- FPTP is regarded as wasteful, as votes cast in a constituency for losing candidates, or for the winning candidate above the level they need to win that seat, count for nothing.
- FPTP can severely restrict voter choice. Parties are not homogenous and do not speak with one unified voice. Parties are more coalitions of many different viewpoints. If the preferred-party candidate in a constituency has views with which a voter doesn't agree, he or she doesn't have a means of expressing that at the ballot box.
- Rather than allocating seats in line with actual support, FPTP rewards parties with what is often termed 'lumpy' support; that is, with just enough votes to win in each particular area. With smaller parties, this works in favour of those with centralised support.
- With relatively small constituency sizes, the way boundaries are drawn can have important effects on the election result.
- Having small constituencies often leads to a proliferation of safe seats, where the same party is all but guaranteed re-election at each election. This not only effectively disenfranchises a region's voters, but it leads to these areas being ignored when it comes to framing policy.
- If large areas of the country are effectively electoral deserts for any particular party, not only is the area ignored by that party, but also ambitious politicians from the area will have to move away from their locality if they aspire to have influence within their party.
- Because FPTP restricts a constituency's choice of candidates, the representation of minorities and women suffers, as the 'safest' looking candidate is the one most likely to be offered the chance to stand for election
- Although encouraging two-party politics can be advantageous, in a multi-party culture, third parties with significant support can often be greatly disadvantaged.