

Council of Governors Meeting: Thursday 5 October 2017
CoG2017.24

Title	Review and Recommendations from 2017 Governor Elections
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Purpose	For decision.
History	A previous version of this paper (CoGPEMQ2017.14) was considered by the Patient Experience, Membership and Quality Committee on 15 September 2017.

Executive Summary

1. Elections for the Council of Governors took place during the summer of 2017 across all constituencies with the exception of the 'Rest of England and Wales' constituency.
2. Whilst previous elections and by-elections for the Council of Governors have run relatively smoothly and without incident, on this occasion a number of issues arose whilst polling was underway.
3. The aim of this document is to outline these issues and what can be learnt from them. It outlines changes that the Patient Experience, Membership and Quality Committee have recommended to improve the process in the future and highlights two specific issues which the Committee recommend that the Council of Governors may wish to consider.

Recommendation

4. Governors to **consider** a recommendation to the Board to change to the Constitution to match the constituencies covering counties surrounding Oxfordshire to those authorities that are contained within the relevant historical county boundaries; and
5. Governors to **consider** moving elections in future years to a 'split phase' approach over a longer period so as to avoid voting during the summer period.

Review and Recommendations from 2017 Governor Elections

1. Purpose

- 1.1. Elections for the Council of Governors took place during the summer of 2017 across all constituencies with the exception of the 'Rest of England and Wales' constituency. The notice of election was published on 22 June with the poll commencing on 7 August and closing on 31 August with results announced the following day.
- 1.2. Whilst previous elections and by-elections for the Council of Governors have run relatively smoothly and without incident, on this occasion a number of issues arose whilst polling was underway. The aim of this document is to outline these issues and what can be learnt from them.
- 1.3. A previous version of this paper was considered by the Patient Experience, Membership and Quality Committee at its meeting on 15 September. This document outlines changes that the Committee have recommended to improve the process in the future and highlights two specific issues which the Committee recommend that the Council of Governors may wish to consider.

2. Issues Identified

Omitted Candidate in Oxford City

- 2.1. Probably the most serious issue that arose during these elections was that, once polling had commenced, the Trust became aware that a candidate had been omitted from the ballot paper in the Oxford City Constituency.
- 2.2. It was quickly confirmed that this was an error on the part of our electoral provider and that the candidate had correctly submitted an application in time. A decision was rapidly made that the only fair course of action under these circumstances was to re-run the election. UK Engage were very disappointed that this error had occurred and deeply apologetic about it. The repetition of the election was carried out entirely at UK Engage's expense.
- 2.3. UK Engage carried out an investigation to establish how this error occurred and to take the necessary steps to ensure that no similar mistake occurs in the future. UK Engage were asked to provide a formal statement in relation to these points.
- 2.4. Following this request UK Engage provided the following comments: "We have taken this issue extremely seriously and would like to assure you that we have never had an issue such as this before in any election that we have managed. The omission was the result of human error whereby an email containing the nomination form was sent to an individual in the office and not the Oxford specific group email address. This email was not processed correctly and as a result the candidate was missing from the ballot paper. As part of our ethos of continual improvement we have looked at our processes and training requirements around the nomination procedure and we have put in further robust processes to ensure that this cannot happen again. To this end there will be no single point of contact between staff dealing with the administration of the election and the candidates, systems have been put in place to ensure that all communications will be distributed throughout the team. I hope that you will accept my assurance that this was a unfortunate but isolated incident that will not happen again in any future elections."
- 2.5. Our previous experience in working with our electoral provider has been extremely positive and their performance in conducting elections and by-elections has been helpful, responsive and reliable. On the basis of the assurance provided it is not, therefore, recommended that any further action is required in relation to this issue.

Staff Voting Issues

- 2.6. A further significant issue was that a number of members of staff reported difficulty in using the electronic voting system.
- 2.7. This related to the fact that a number of workstations across the Trust were running older versions of Internet Explorer with which the voting software was not compatible. Staff using workstations with new versions of Internet Explorer or with a different web browser installed were able to vote without difficulty. On investigation it appears that an update was deliberately not pushed out across the whole Trust. This was due to a national problem in that later versions of Internet Explorer were incompatible with the national staff record.
- 2.8. Around 8-12 people contacted the Foundation Trust Membership Office to highlight that they were having difficulties. Once the issue had been raised the 'Have you voted?' reminder emails were amended to include the following text:

Can't login to the pre.ukvote.uk/ouh site?

Some staff have had problems accessing the site, this is because some Trust computers are still using old versions of Internet Explorer. If you are having problems accessing the site please email IM&T on IMandTservicedesk@ouh.nhs.uk or call 01865 (2)22822 and ask for your computer to be upgraded to Internet Explorer 11. Alternatively you can login to the site using an ipad or smartphone.

- 2.9. This is far from ideal as these difficulties provided a disincentive to vote when the Trust wishes to make it as straightforward as possible in order to encourage higher turnout. However, no one who strongly wished to vote would have been prevented from doing so as IM&T could update the software on any workstation on request. Staff with access to a smartphone or tablet could also use these to vote. No staff, therefore, were actually disenfranchised although many may have been discouraged from voting which is absolutely not what the Trust would wish.
- 2.10. It should be noted that the use of older versions of Internet Explorer has had other impacts within the Trust as there have been other links circulated which not all staff have been able to access. It is understood that the national issues have now been resolved and that all Trust computers were updated to Internet Explorer 11 by 13 September.
- 2.11. This issue should, therefore, not recur during future elections. The Patient Experience, Membership and Quality Committee agreed, however, that software compatibility requirements for electronic ballots be confirmed prior to any future elections.
- 2.12. A secondary issue that occurred for some staff was that voting emails were diverted into spam folders. The Patient Experience, Membership and Quality Committee agreed that during future elections the Trust consider 'whitelisting' these emails to stop them from being diverted into spam folders in order to prevent this from occurring.

Constituency Definitions

- 2.13. A further issue that was raised by a small number of members during this election related to queries regarding the constituency to which they had been assigned.
- 2.14. In particular, a few members of staff disputed their allocation to the Clinical or Non-Clinical Staff constituencies. During the election the Constitution was carefully applied: this states that the constituency is based on how the role is assigned on the Trust Electronic Staff Record. However, some staff with roles spanning clinical and non-clinical responsibilities have disagreed with how ESR categorises their roles. Individual cases that were raised were all reviewed.

- 2.15. Another example was that a member in Milton Keynes queried their assignment to the 'Rest of England and Wales' constituency rather than the 'Buckinghamshire, Berkshire, Gloucestershire and Wiltshire' constituency. This was, again, in line with the Trust's Constitution as it currently stands. A further member wished to stand in a constituency to which they were moving but in which they were not currently resident. This also is not permitted by the Constitution as it stands.
- 2.16. The Patient Experience, Membership and Quality Committee recommended that the Council of Governors review the relevant elements of the Constitution to see whether there are any areas where they might wish to recommend a change to:
- How staff constituencies are defined
 - The constituency into which Milton Keynes is categorised
 - Whether members may stand for election in a constituency in which they are not resident
- 2.17. The relevant sections of the Constitution (Annex 1 and Annex 2) are attached to this paper for reference.
- 2.18. The issue highlighted in relation to staff constituencies does not appear to require a change to the Constitution and this is not therefore recommended. The key issue here is to ensure that the categorisation of roles on the EPR, especially where these include both clinical and administrative responsibilities, is reviewed prior to future elections where concerns have been identified.
- 2.19. The issue of the definition of the boundaries of the constituencies covering surrounding counties may merit a revision to the Constitution. As stated, this currently excludes Milton Keynes which is not formally part of Buckinghamshire because it is a separate unitary authority. Governors may wish to recommend a change to the Constitution to match the constituencies to those authorities that are contained within the relevant historical county boundaries. Such a recommendation would require approval by the Board.
- 2.20. It is not recommended that members be permitted to stand for election in a constituency in which they are not resident. This risks breaking the link between a governor and the members of the public that they are elected to represent. Even where a governor anticipates moving into a constituency in the near future the possibility would exist that this did not happen.

Public Voting Issues

- 2.21. A few small issues were raised by individuals voting in public constituencies.
- 2.22. One member highlighted the inconvenience of having to open up each of the candidate statements individually and suggested that a single document would be more convenient. This seems a good suggestion and the Patient Experience, Membership and Quality Committee agreed that this change be requested from our electoral provider.
- 2.23. UK Engage have confirmed that this is possible and have outlined an approach to doing so with the precise design to be finalised closer to the time of the next election.
- 2.24. There was also a further complaint regarding the number of reminder emails received about the election. Given that those sent from our electoral provider are no longer received once a member has voted (though other were sent to all voters directly from the Trust) and the Trust's desire to increase turnout, it is not recommended that any change be made in this regard.
- 2.25. Where individuals do experience difficulties in voting electronically, it is possible to arrange a postal vote although the costs for the Trust are greater. The Patient

Experience, Membership and Quality Committee agreed that this option should be more clearly publicised to voters in future elections as this may assist in increasing turnout.

Overall Turnout

- 2.26. Overall, turnout has significantly reduced in comparison with the Trust's first set of elections in 2015. Turnout in the public constituencies that have voted fell from 25.5% in the last elections to 15.5% this time whilst clinical staff turnout is down from 16.2% to 5.6% and non-clinical turnout from 19.7% to 8.2%.
- 2.27. The Smith Institute published a document in 2013 highlighting the downward trend in governor election turnout. The figures that they analysed were between 2004–2010 and highlighted that when governor elections first took place the average turnout was 48%; by 2010 this had fallen sharply to around 25%. UK Engage have seen this trend continuing over the last 7 years with the average governor election turnout declining further to around 15%. UK Engage regarded turnout overall at our first set of elections as very high in their experience at the time. In addition to the overall trend highlighted, this second set of elections would be expected to have reduced turnout as the novelty of the process has diminished and it also ran over the summer period when many members may have been absent for part of the voting period.
- 2.28. It is hoped that the various actions already outlined will assist in improving turnout in future governor elections. Since running the elections in the summer period may have had a further impact on turnout (the previous elections took place in December/January) UK Engage were asked for their view on this based on their experience.
- 2.29. UK Engage have indicated that they have no empirical evidence on this issue. However, they note that running an election over this period does seem to affect the communications around the election and therefore the turnout and the number of nominations.
- 2.30. An option that they have employed in the past is to split the phases of the election so that nominations occur before the normal 6 week summer holidays and that the ballot happens after this period. They note, however, that this comes with its own challenges; it is important to maintain interest and engagement in the process over a longer period of time and specifically the period between the close of nominations and the start of the ballot. They also comment that one important thing to take into account when considering the holidays is that the election timetable as part of the Model Rules keeps the ballot open for just over three weeks, so any holidays during the ballot period should not affect the ability of that person being able to vote.
- 2.31. The 'split phase' option for the elections appears preferable to the alternative of holding elections earlier in the year. The impact of this might be to have a number of people who nominally remained governors for a period of months but who already knew that they had lost their place on the Council. This would inevitably be demotivating for the individuals concerned.
- 2.32. It is recommended that governors consider whether they would wish elections to move in future years to a 'split phase' approach over a longer period so as to avoid voting during the summer period.

3. Recommendations

- 3.1. Governors to **consider** a recommendation to the Board to change to the Constitution to match the constituencies covering counties surrounding Oxfordshire to those authorities that are contained within the relevant historical county boundaries; and

- 3.2. Governors to **consider** moving elections in future years to a 'split phase' approach over a longer period so as to avoid voting during the summer period.

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Programme Manager

September 2017

Annex 1: The Public Constituencies

1. The areas for public constituencies shall be as shown below.
2. The areas numbered 1 to 5 below shall be the local authority district council areas and include all those resident in all electoral wards of these areas.
3. The areas numbered 6 and 7 below shall be all of the local authority council areas within the counties listed and include all those resident in all electoral wards of these areas.
4. The area numbered 8 below shall be all counties within England not included within areas 1–7 and all counties in Wales and include all those resident in all electoral wards of these areas.

	<i>Local authority</i>	<i>Minimum number of members</i>
1	Cherwell District Council	100
2	Oxford City Council	100
3	South Oxfordshire District Council	100
4	Vale of White Horse District Council	100
5	West Oxfordshire District Council	100
6	Buckinghamshire, Berkshire, Gloucestershire and Wiltshire	50
7	Northamptonshire and Warwickshire	50
8	Rest of England and Wales	50
	Total public membership minimum	650

Annex 2: The Staff Constituency

1. There will be two classes of staff members within the Staff Constituency as follows:
 - 1.1. groups of staff:
 - 1.1.1. categorised in the trust's Electronic Staff Record as administrative and clerical, estates and ancillary staff;
 - 1.1.2. employed by, or seconded to (under a retention of employment model) a Private Finance Initiative provider to provide services at any of the trust's premises; and
 - 1.1.3. employed by the University of Oxford in its Medical Sciences Division in a non-clinical rolewill be assigned to the 'non-clinical' staff class; and
 - 1.2. allied health professionals, additional clinical services, healthcare scientists, medical and dental, nurses and midwives and professional scientific and technical staff will be assigned to the 'clinical' staff class.
2. The minimum number of members within each class within the Staff Constituency shall be 300.