

EXTRAORDINARY TRUST BOARD MEETING IN PUBLIC

9 January 2024, 16.00 – 16.30
Microsoft Teams

Agenda and Papers

EXTRAORDINARY TRUST BOARD MEETING IN PUBLIC

Tuesday 9 January 2024, 16.00 – 16.30
Microsoft Teams

The recording of the meeting will be published on the website

AGENDA

- | | | | | |
|----|---|-------------------|----------|-------|
| 1. | Welcome and apologies | Trust Chair | Verbal | 16.00 |
| 2. | Declaration of interests | Trust Chair / All | Verbal | |
| | To declare any conflicts on items on the agenda | | | |
| 3. | Proposed amendments to KCHFT Constitution: | Trust Chair | Attached | |
| | <ul style="list-style-type: none"> Review of staff governor constituencies Increase number of staff governors | | | |
| 4. | Any other items of business previously notified to the Chair | Trust Chair | Verbal | 16.20 |
| 5. | Questions relating to the agenda items. | Trust Chair | Verbal | 16.25 |

DATE OF NEXT MEETING

Wednesday 17 January 2024;
 KCHFT Offices, Rooms 6 and 7,
 Trinity House, 110 – 120 Upper
 Pemberton, Ashford, Kent TN25 4AZ

Trust Chair

Verbal

Meeting:	Board Meeting - Part 1 (Public)
Date of Meeting:	09 January 2024
Agenda item:	Item 3
Report title:	Proposed Amendments to the Trust Constitution
Executive sponsor(s):	Maired McCormick, Chief Executive
Report author(s):	Mercy Kusotera, Director of Governance
Action this paper is for:	<input checked="" type="checkbox"/> Decision/approval <input type="checkbox"/> Assurance/Information <input type="checkbox"/> Note
Public/non-public	Public

Executive summary
<p>This paper sets out proposed amendments to the Constitution in regard to the size and composition of the staff governors on the Council.</p> <p>Kent Community Health NHS Foundation Trust's Constitution sets out the powers and functions of the Trust and how its governance operates.</p> <p>Changes to the Constitution require the approval of the Board and Council of Governors and therefore these proposals will be submitted to the Extraordinary Council of Governors meeting on 9th January 2024.</p> <p>Highlights</p> <p>Our Constitution requires members of the Council of Governors other than Appointed Governors, to be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. Since our current staff governors were elected, the Trust structure has changed and therefore the staff governors' classes are no longer in sync with the current Trust structures.</p> <p>An elected member of the Council of Governors may hold office for a period of three years and may be eligible for re-election at the end of that period. Four out of five of our staff governors are coming to the end of the three years period in March 2024 and are due for election.</p> <p>A number of staff engagement workshops were held across the Trust in June 2023 as part of the 'Nobody Left Behind' and Staff voice initiatives. Some of the recommendations from the workshops are included in the report.</p>

In order to ensure adequate representation for a Staff Constituency consisting of over 5,000 members and ensure that access to these roles is as inclusive as possible, it is recommended that:

- the number of Staff Governor seats be increased from five to six to support effective representation of our workforce,
- the current four staff classes be removed and instead have one staff constituency under which all eligible staff will sit,
- the terms of office for staff governors be staggered to avoid a situation whereby all our staff governors are due for re-election at the same time,
- Include the following transitional provisions clause in the Constitution at Annex 6 (Staff Governor Constituency) to enable the terms of office for the staff governors to be staggered:

“For the Governors elected to represent the Staff Constituency, the three Governors that poll the highest number of votes will serve a term of office of three years. The three Governors polling the next highest number of votes will serve a term of two years. The term of office for the staff governors will commence on the date notified to them by the Trust in writing. Any staff governor who is elected to serve a further term of office thereafter will serve a term of office of three years.”

The proposals still maintain that there is a majority of public governors on the Council in comparison with appointed and staff governors as shown below:

- Public (13)
- Staff (6)
- Appointed (6)
- **Total 25**

Changes to the Constitution require the approval of the Board and Council of Governors, therefore these proposals will also be submitted to the Council of Governors for consideration at its Extraordinary meeting on 9 January 2024.

The Board is recommended to **APPROVE** the proposed changes to the Constitution set out in the report, and to authorise the Director of Governance to incorporate the approved changes into a revised edition for notification to NHSE, publication on the Trust’s website and dissemination within the organisation.

Report history / meetings this item has been considered at and outcome

Nil

Recommendation(s)

The Board is asked to

- **APPROVE** the proposed changes to the Trust Constitution set out in the report.

Link to CQC domain

<input checked="" type="checkbox"/> Safe	<input checked="" type="checkbox"/> Effective	<input checked="" type="checkbox"/> Caring	<input checked="" type="checkbox"/> Responsive	<input checked="" type="checkbox"/> Well-led
--	---	--	--	--

Assurance Level

<input type="checkbox"/> Significant	<input checked="" type="checkbox"/> Reasonable	<input type="checkbox"/> Limited
--------------------------------------	--	----------------------------------

Implications

Links to BAF risks / Corporate Risk Register	<input type="checkbox"/> BAF	<input type="checkbox"/> CRR
Equality, diversity and inclusion	Yes – the Trust values and promotes equality; NLB and Staff voice initiatives support Equity, diversity and inclusion.	
Legal and regulatory	Yes - National Health Services Act 2006 and NHS England.	

Executive Sponsor sign off

Name and designation:	Mairead McCormick, Chief Executive
Date:	December 2023

Date: 9 January 2024

Report: Proposal to amend KCHFT Constitution



Introduction:

Kent Community Health NHS Foundation Trust's Constitution sets out the powers and functions of the Trust and how its governance operates.

Changes to the Constitution can take effect only if the amendments are approved by both the Trust Board and the Council of Governors. More than half of members voting at both the Board meeting and Council of Governors meeting are required to support the amendments in order to adopt a revised Constitution.

Where there have been amendments to the Constitution which relate to the powers, duties or roles of the Council of Governors, at least one governor must attend the next annual members' meeting/annual general meeting and present the amendment(s) to members. Members have the right to vote on and veto these types of constitutional amendments.

Background:

The Trust Constitution allows the Trust to amend its Constitution if:

- More than half of the members of the Council of Governors of the Trust present and voting at a meeting of the Council of Governors approve the amendments, (Section 31.1.1) and
- More than half of the members of the Board of Directors of the Trust present and voting at a meeting of the Board of Directors approve the amendments (Section 31.1.2).

A number of staff engagement workshops were held across the Trust in June 2023 as part of the 'Nobody Left Behind' and Staff voice initiatives.

Some of the recommendations picked up from the workshops included the following:

- There was need to revisit the composition and size of staff governors' constituency. Since the current governors had been put in post, the Trust divisions had changed, however the changes to the Trust structure had not been re-aligned to the distribution of staff governors.

- In terms of who the staff governors represent, there was recognition that, some staff asked ‘does it matter which areas staff governors represent and can people talk to anyone?’
- There was a suggestion that there are not enough staff governors in the role; five individuals to represent more than 5,000 colleagues did not feel balanced. It was recommended to increase the number of staff governors from five to six.

Recommendations from the staff engagement sessions have been taken onboard and highlighted the need to review the Trust Constitution ensure adequate representation for a Staff Constituency consisting of over 5,000 members and ensure that access to these roles is as inclusive as possible.

Summary of the proposed amendments to the Constitution:

The following amendments relating to staff governors are proposed:

- The number of Staff Governor seats be increased from five to six to support effective representation of our workforce.
- The current four staff classes namely: Children and Young People, Adult Services, Health and Wellbeing Services and Corporate Services be removed from the Staff Constituency and instead have one staff constituency under which all eligible staff will sit.
- The terms of office for staff governors be staggered to avoid a situation whereby all our staff governors are due for re-election at the same time.
- Include the following transitional provisions clause in the Constitution at Annex 6 (Staff Governor Constituency) to enable the terms of office for the staff governors to be staggered:

“For the Governors elected to represent the Staff Constituency, the three Governors that poll the highest number of votes will serve a term of office of three years. The three Governors polling the next highest number of votes will serve a term of two years. The term of office for the staff governors will commence on the date notified to them by the Trust in writing. Any staff governor who is elected to serve a further term of office thereafter will serve a term of office of three years.”

These proposals still maintain that there is a majority of public governors (13) in comparison with appointed (6) and staff governors (6) i.e. 13 public governors and 12 appointed and staff governors).

Following approval by both the Board and Council of Governors, the Amendments made under paragraph 31.1 above take effect as soon as the conditions in that paragraph are satisfied. The Lead Governor will attend the next Annual Members’ Meeting in September 2024 and present the amendments to the Constitution, and the Trust will give the Members an opportunity to vote on whether they approve the amendments.

The Trust will ensure that there is comprehensive engagement activity to ensure that we reach all groups of staff and services to maximise the opportunity for staff across all parts of the trust to stand for election and be appointed in 2024. This will include support from the current staff governors (e.g. videos for staff about the role and the importance of having a cross section of staff as governors). This will build on the engagement plans that other Foundation Trusts have successfully used to achieve a good cross section of staff when elected as governors.

There will also be a comprehensive induction programme for newly appointed staff governors in 2024 including the proposed Staff Voice (proposal to the Council of Governors on 17 January 2024).

The current Trust Constitution can be accessed via the following link: [KCHFT-constitution.pdf \(kentcht.nhs.uk\)](https://kentcht.nhs.uk/KCHFT-constitution.pdf).

Recommendation:

The Board is asked to:

- **APPROVE** the proposed changes to the Constitution set out in this report, and to authorise the Director of Governance to incorporate the approved changes into a revised edition for notification to NHSE, publication on the Trust's website and dissemination within the organisation.

Name: Mercy Kusotera, Director of Governance

December 2023

Appendix 1: Description of the proposed amendments to the Constitution:

Ref	Section	Description of proposed change
1	6. Membership and Constituencies 6.4 STAFF CONSTITUENCY - Paragraph 6.4.5 - Paragraph 6.4.6 - Paragraph 6.4.7	Removal of paragraph 6.4.5, including sub paragraphs 6.4.5.1 to 6.4.5.4. Amendment to paragraph 6.4.6 to read 'The minimum number of members in the Staff Constituency is specified in Annex 2. Removal of paragraph 6.4.7.
2	6. Membership and Constituencies 6.6 RESTRICTION ON MEMBERSHIP	Removal of paragraph 6.6.3

	- Paragraph 6.6.3	
3	ANNEX 1 – THE TRUST CONSTITUENCIES	Staff Constituency to be amended to remove the four staff classes. Instead there will be one staff class known as Staff with 100 minimum number of members, and 6 staff governors.
4	ANNEX 2 – COMPOSITION OF COUNCIL OF GOVERNORS - Paragraph 1.1.2	Increase in the number of staff governors from 5 to 6. Removal of the four staff classes. Bullet point to now read: 1.1.2 6 Staff Governors; • Six (6) being elected from the staff constituency.
5	7.3 TERMS OF OFFICE 7.3.1 Elected Governors - Paragraph 7.3.1.1	Rewording of paragraph to: 7.3.1.1 Subject to transitional provisions, an Elected Governor may hold office for a period of up to 3 years.
6	Transitional Provisions paragraph to be included in Annex 6 – Staff Governors Constituency	Include the following paragraph: “For the Governors elected to represent the Staff Constituency, the three Governors that poll the highest number of votes will serve a term of office of three years. The three Governors polling the next highest number of votes will serve a term of two years. The term of office for the Governors will commence on the date notified to them by the Trust in writing. Any Governor who is elected to serve a further term of office thereafter will serve a term of office of three years.