

**Derbyshire Healthcare NHS Foundation Trust
Council of Governors' Extraordinary Meeting**

Council of Governors

Virtual MS Teams meeting

5 July 2022 14:00 - 5 July 2022 14:20

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COUNCIL OF GOVERNORS' EXTRAORDINARY MEETING

TUESDAY 5 JULY 2022 FROM 14:00-14.20PM

We are currently still retaining virtual meetings; this will be reviewed in the near future. This will be a virtual meeting conducted digitally via Microsoft Teams technology. [Click here to join the meeting](#)

AGENDA		LED BY	TIME
1.	Welcome, introductions, apologies for absence and Declaration of Interests	Selina Ullah	14.00
STATUTORY ROLE			
2.	Approval of the appointment of the new Non-Executive Director (Finance and Performance)	Selina Ullah	14.00
3.	Deputy Trust Chair and Senior Independent Director roles – appointment proposals	Selina Ullah	14.10
4.	Close of meeting	Selina Ullah	14:20
<p>Next Council of Governors Meeting: An extraordinary Council of Governors has been arranged for Tuesday 26 July 2022, from 10.00 – 10.20am to approve the appointment of the Non-Executive Director (clinical/quality and safeguarding). This will be a virtual meeting.</p>			

**Governors’ Nominations & Remuneration Committee’s recommendations –
 appointment of a Non-Executive Director**

Purpose of Report

This paper provides the Committee’s recommendations to the Council of Governors in relation to the appointment of a Non-Executive Director (NED).

Executive Summary

This report provides:

- A summary of the recruitment process followed by the Governors’ Nominations and Remuneration Committee for the appointment, confirming compliance with all applicable law and advice.
- A description of how the preferred candidate met the criteria for the role and their strengths and confirmation that the proposed appointee has the right qualities to meet the job description, taking into account the views of the Board on qualifications, skills and experience required for the position.
- A recommendation to appoint Tony Edwards as Non-Executive Director on an annual fee of £12,638 for a three year term commencing on a date to be confirmed in line with the completion of the recruitment checks.
- Confirmation that the Committee received assurance that all of the Fit and Proper Persons checks have been completed for the latest Non-Executive Director appointments.

Strategic Considerations

1) We will deliver great care by delivering compassionate, person-centred innovative and safe care	
2) We will ensure that the Trust is a great place to work by attracting colleagues to work with us who we develop, retain and support by excellent management and leadership	X
3) We will make the best use of our money by making financially wise decisions and will always strive for best value to make money go further	

Assurances

The recruitment process followed has been supported by GatenbySanderson, recruitment consultant in compliance with the Trust’s recruitment processes.

Consultation

Governors from the Nominations and Remuneration Committee have been involved in oversight of the recruitment process and directly involved in shortlisting

and interview. Other governors and Trust staff have also been involved in stakeholder sessions with candidates. Each stakeholder group fed back to the interview panel prior to formal interview.

Governance or Legal Issues

Governors have a statutory role to appoint Non-Executive Directors. The Trust's Constitution (paragraph 21.1) states that:

- 21.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Trust and the other Non-Executive Directors.

Annex 5 of the Trust's Constitution sets out functions of the Nominations [and Remuneration] Committee in relation to the appointment of Non-Executive Directors, which includes:

- 9.4.1 to determine the criteria and process for the selection of candidates for office as Chair or other Non-Executive Director of the Trust having first consulted with the Board of Directors and Governors as to those matters and having regard to such views as may be expressed by the Board of Directors and Council of Governors;
- 9.4.2 to assess and select for interview such candidates as are considered appropriate and in doing so the Nominations Committee for Non-Executive Directors shall be at liberty to seek advice and assistance from persons other than members of the Nominations Committee for Non-Executive Directors or of the Council of Governors;
- 9.4.3 to make recommendation to the Council of Governors as to potential candidates for appointment as Chair or other Non-Executive Director, as the case may be.

Annex 5 also states:

- 9.6 The Council of Governors shall resolve in general meeting to appoint such candidate or candidates (as the case may be) as it considers appropriate and in reaching its decision it shall have regard to the views of the Board of Directors and of the Nominations Committee for Non-Executive Directors as to the suitability of the available candidates and the remuneration and allowances and other terms and conditions of office.

For clarity, voting on resolutions by the Council of Governors is as follows (paragraph 3.12 of the Council of Governors Standing Orders):

Save as otherwise provided in the Constitution and/or the 2006 Act, if the Chair so determines or if a Governor requests, a question at a meeting shall be determined by a majority of the votes of the Governors present and voting on the question and, in the case of any equality of votes, the person presiding shall have a casting vote.

Equality Impact Risk Analysis

In compliance with the Equality Delivery System (EDS2), reports must identify equality-related impacts on the nine protected characteristics age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity (REGARDS people (Race, Economic disadvantage, Gender, Age, Religion or belief, Disability and Sexual orientation)) including risks, and say how these risks are to be managed.

Below is a summary of the equality-related impacts of the report:

The recruitment process complied with best practice around inclusive recruitment. Some of the areas of best practice included:

- The criteria for selecting a Search and Selection Consultancy focused on the ability to develop a diverse candidate pool aligned with Trust Values in Making a Positive Difference.
- Full national advertisement with targeted recruitment as part of our positive action approach through Diversity Networks.
- Trained inclusion guardian from a Trust network involved in the longlisting and shortlisting meetings and a member of the final panel interview.
- All Trust Networks were invited to be represented at the stakeholder session.
- Service Users and Carers represented on the stakeholder group.
- Questions around inclusion featured strongly in the final panel interview.
- Equality, Diversity and Inclusion objectives will continue to be integral to the appraisal and Committee processes.

Recommendations

The Council of Governors is requested to:

1. Approve the appointment of Tony Edwards as Non-Executive Director at an annual fee of £12,638 for a three year term. Start date to be confirmed in line with the completion of the recruitment checks.
2. Note that all appointments to the Trust Board are subject to satisfactory completion of the Fit and Proper Persons Tests as set out in Appendix 2.

Report presented by
Report prepared by

Selina Ullah, Trust Chair
Justine Fitzjohn, Trust Secretary

Background

A competitive process was undertaken for the recruitment of a Non-Executive Director (NED) to replace the vacancy that will be left by Richard Wright when he leaves the Trust on 30 June to take up his Non-Executive Member position on 1 July on the Derbyshire Integrated Care Board (ICB).

The Trust engaged GatenbySanderson (GS) in a headhunting exercise to identify and encourage applications from potential candidates who met the constitutional requirements for membership of the Trust and whose skills and experience were in line with the person specification for the NED positions.

Due to being unable to successfully recruit to this vacancy through two rounds, the search criteria was refined to target candidates with established NED experience in a financial/commercial setting.

At the closing date 17 applications were received. The long list process was bypassed due to the impending vacancy and at short list five candidates were selected for interview although one was ultimately unable to attend due to a pre-planned holiday.

Two stakeholder groups were held on 24 June (three candidates) and 27 June (one candidate) which all provided feedback to the interview panel which was held on 28 June. The Committee convened immediately following the panel's deliberations and is recommending the appointment of Tony Edwards to the NED role. This includes the role of Chair of the Finance and Performance Committee. The panel was unanimous in its recommendation to the Committee.

Tony demonstrated strengths across the NED portfolio and in particular:

- Was engaging, authentic and openly demonstrated his alignment with the Trust's values.
- Was people focused, understood the role of a NED, and was able to translate his financial/commercial experience to Derbyshire's context. He had understood the Trust and the role of the Governors.
- Had a leadership style which is centred around being open, engaging, approachable, and was humble – he was willing to listen, learn and respond to feedback.
- Brought good examples from outside the NHS and applied them well here demonstrating strong insight.
- The panel were assured of his strong technical skills and that he would bring different thinking from his breadth of experience including his work internationally, to inform our cultural intelligence.

The other candidates unfortunately were unable to demonstrate the necessary skills and experience required for the NED positions at the Trust at this time.

The constitutional context of the NED appointment is outlined in the Governance or Legal section of the report cover sheet.

Appendix 1 outlines the detailed recruitment process, Appendix 2 details the Fit and Proper Person Test requirements for the recruitment process and Appendix 3 is a short biography on Tony Edwards.

Also at the Committee meeting on 28 June, assurance was received that all of the Fit and Proper Persons checks have been completed for the latest Non-Executive Director appointments, Deborah Good and Ralph Knibbs.

Recommendations:

The Council of Governors is requested to:

1. Approve the appointment of Tony Edwards as Non-Executive Director at an annual fee of £12,638 for a three year term. Start date to be confirmed in line with the completion of the recruitment checks and building in an appropriate period of handover.
2. Note that all appointments to the Trust Board are subject to satisfactory completion of the Fit and Proper Persons Tests as set out in Appendix 2.

Recruitment Process for NEDs

Development of the person specification and role requirements

Governors from the Nominations and Remuneration Committee sanctioned all stages of the recruitment process, including the timetable, agreeing the job description (JD), person specification (PS), advert and interview questions. In agreeing the JD/PS the Committee considered the balance of skills on the current Board and the Board's view on the skills, knowledge and experience required for this vacancy.

Advertising and Longlisting and Shortlisting process

The vacancy was promoted locally and nationally for 24 days and 17 applications were received. All applications were sifted and graded by GatenbySanderson (GS) and were rated as A: Recommended for Preliminary interview, B: Marginal for Preliminary Interview or C: Not Recommended for Preliminary Interview. The long list stage was bypassed, and the Panel shortlisted five to the final panel selection process although one was ultimately unable to attend due to a pre-planned holiday.

Candidates were invited to speak to members of the Board and other key stakeholders in advance of the interviews to support their preparation.

The interview process

It was agreed that two stakeholder focus groups would be convened to discuss informal topics with the candidates as part of the interview process. Groups 1 and 2 had 30 minutes with each candidate and interacted around a discussion topic.

Each group gave qualitative feedback to the interview panel prior to the formal interview to help inform the overall recruitment decision. The groups and panels are outlined below.

Group 1: **Trust Board**
Members: Sheila Newport – Non-Executive Director (group chair)
 Richard Wright - Non-Executive Director and Deputy Chair *
 Ade Odunlade – Chief Operating Officer
 Claire Wright – Deputy Chief Executive and Finance Director *
 Justine Fitzjohn – Trust Secretary
 Deborah Good – Non-Executive Director *
 * 24 June session only

Group 2: **Governors/EQUAL/ Equalities Forum**
Members: Denise Baxendale – Membership & Involvement Manager (group chair)
 Sandra Austin – EQUAL forum carer representative *
 Andrew Beaumont – Public Governor

Jeanne Blair – Expert by Experience, CAMHS
Maddie Roche – Equalities Forum representative and LGBT+
Network Chair

* 24 June session only

Interview Panel

Members: Selina Ullah – Trust Chair (chair)
Susan Ryan – Lead Governor and Nominations and Remuneration
Committee member (Public Governor)
Orla Smith – Nominations and Remuneration Committee member
(Public Governor)
David Charnock – Nominations and Remuneration Committee
member (Appointed Governor – University of Nottingham)
Tess Martin – Recruitment Inclusion Guardian

In attendance:

Ifti Majid – Chief Executive
Emma Pickup – GatenbySanderson

The panel had identified questions to ask each candidate based on the set used in the previous round. Feedback from each of the Groups was also received and the panel questions were adjusted to probe any particular areas raised about candidates.

Following interview, the Committee formally convened and received feedback from the Trust Chair and the governor members of the Panel, starting with the preferred candidate, Tony Edwards, then on the candidates that were not appointable.

Discussions included consideration of skills, experience, values, motivation and organisational fit. The panel had been unanimous in its recommendation for Tony Edwards. Remuneration and terms of appointment were also discussed and agreed.

Recommendation of the Committee

There was unanimous agreement to recommend the appointment of Tony Edwards as Non-Executive Director at an annual fee of £12,638 for a three year term. Start date to be agreed in line with the completion of the recruitment checks and building in an appropriate period of handover.

APPENDIX 2

Excerpt from the Trust's Fit and Proper Persons Test Policy – detailing checks to be undertaken prior to commencement of a Board member within the Trust:

Trust Procedure:

- Pre-Employment

All new appointments to the applicable posts will have the following checks:

- I. Proof of identity.
- II. Right to work.
- III. DBS check.
- IV. Full employment history and two references one of whom must be the most recent employer. Specifically, this will include validating a minimum of three years continuous employment.
- V. Proper check of qualifications and professional registration.
- VI. Occupational Health Clearance as relevant to the role.

In addition, the following registers will be checked:

- I. Disqualified directors.
- II. Bankruptcy and insolvency.
- III. Search of information in the public domain.

- Declaration

Appointees will be asked to complete a declaration to include:

- I. Any past health issues (subject to the relevant provisions of the Equality Act 2010).
- II. Any criminal and/or regulatory investigations.
- III. Any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out regulated activity.
- IV. Any undischarged bankruptcy, disqualification, debt relief orders etc.
- V. Any inclusion on the Children's or Adults barred lists.
- VI. Any prohibition from holding relevant position or office under any law.

BIOGRAPHICAL SUMMARY

Tony lives in Derbyshire and holds a BA in Accounting and Finance. He was Vice President and General Manager of the aluminium gas cylinder business unit of Luxfer Holdings plc, headquartered in the East Midlands. Prior to joining Luxfer, Tony spent two years as Corporate Development Director for Renold plc and 15 years as a Managing Director in international B2B manufacturing groups headquartered in the East Midlands. Tony is a chartered accountant, having qualified whilst at Price Waterhouse, then spending 14 years in a variety of increasingly senior group, divisional and operational financial roles with Rio Tinto plc, Norcros plc and the Filtrona division of Bunzl plc. He was previously a Governor at Nottingham Trent University. He has recently retired from his executive role in order to consider wider non-executive and consultancy roles. He currently sits on the Strategy, Finance and Performance Committee at the University of Derby and is also part of the project board focusing on the new Business School development project, c£70m spend.

Derbyshire Healthcare NHS Foundation Trust

Report to the Extra-ordinary Council of Governors – 5 July 2022

Deputy Chair and Senior Independent Director Roles

Purpose of Report

To seek approve for the appointment of an interim Deputy Chair and seek support for the appointment of the Senior Independent Director.

Executive Summary

The departure of Richard Wright and Margaret Gildea created vacancies for the Deputy Chair and Senior Independent Direct respectively.

As an interim position the Chair seeks approval from the Council of Governors to appoint Dr Sheila Newport as Deputy Chair. This will be reviewed again once all new Non-Executive Directors are in post.

The Chair also seeks support for the appointment of Ralph Knibbs as Senior Independent Director (SID).

Strategic Considerations

1) We will deliver **great care** by delivering compassionate, person-centred innovative and safe care

2) We will ensure that the Trust is a **great place to work** by attracting colleagues to work with us who we develop, retain and support by excellent management and leadership

x

3) We will make the **best use of our money** by making financially wise decisions and will always strive for best value to make money go further

Assurances

Appointments of the Deputy Chair and SID complies with the requirements of the Code of Governance and meets good corporate governance best practice.

The proposals have been reviewed against guidance issued by the Foundation Trust Regulator and is compliant with the Trust's Constitution.

Consultation

The Chair has consulted with the Non-Executive Directors (NEDs) and other Board colleagues.

Governance or Legal Issues

The role of Deputy Chair is governed by the Trust's Constitution and prescribes that the Council of Governors shall appoint one of the Non-Executive Directors as the Deputy Chair.

The role of the SID is also governed by the Trust's Constitution and prescribes that The Chair may appoint one of the Independent Non-Executive Directors as the Senior Independent Director in consultation with the Governors and the other Non-Executive Directors.

Public Sector Equality Duty & Equality Impact Risk Analysis

In compliance with the Equality Delivery System (EDS2), reports must identify equality-related impacts on the nine protected characteristics age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity (REGARDS people (Race, Economic disadvantage, Gender, Age, Religion or belief, Disability and Sexual orientation)) including risks, and say how these risks are to be managed.

Below is a summary of the equality-related impacts of the report:

The proposed appointments have been considered against skills and experience of the NED cohort, taking into account any restrictions on who is eligible to be considered.

Recommendations

The Council of Governors is requested to:

1. Approve Sheila Newport as interim Deputy Chair of the Trust, backdated to 1 July 2022.
2. Support the appointment of Ralph Knibbs as Senior Independent Director, backdated to 1 July 2022 in line with the revised role description.

Report presented by: Selina Ullah, Trust Chair

Report prepared by: Justine Fitzjohn, Trust Secretary

DERBYSHIRE HEALTHCARE NHS FOUNDATION TRUST

DEPUTY CHAIR AND SENIOR INDEPENDENT DIRECTOR ROLES

Background

The Trust has both a Deputy Chair and a Senior Independent Director.

The Deputy Chair deputises for and supports the Trust Chair. This includes chairing meetings of the Board and Council of Governors (and other appropriate meetings) when the Trust Chair is not available or when the Trust Chair has declared an interest that would prevent them from taking part in the meeting, for example when their remuneration is being considered.

The Senior Independent Director (SID) provides a sounding board and source of advice to the Chair and provides an intermediary role for other Directors and the Council of Governors in certain circumstances. The SID also leads the Chair's annual appraisal. An amended role description is attached at Appendix A (the new sections that have been added are highlighted).

The requirements of both roles are addition to the duties and responsibilities of their Non-Executive Director (NED) roles.

Proposal

Deputy Chair

The recent departure of Richard Wright has left a vacancy for this role. He had been the Deputy Chair since 2019. The Chair is proposing that Dr Sheila Newport be appointed by the Council of Governors as the Deputy Chair on an interim basis. The reason for this interim position is that the Chair would like to have the new NED team in place before making a proposal for a substantive appointment. Sheila herself will be leaving the Trust once her replacement has been appointed.

Senior Independent Director

The recent departure of Margaret Gildea has left a vacancy for this role. She had been the SID since 2017. The Chair seeks the Council of Governors' support for the appointment of Ralph Knibbs, Non-Executive Director, as the SID. This has received support from the other NEDs. Governors will recall that Ralph has a background in Human Resources; has the range of skills and qualities to bring to the role and has the capacity to fulfil the responsibilities as outlined in the role description at Appendix A.

In some Trusts the Deputy Chair is also the SID and current guidance states that the SID may be, but does not have to be the Deputy Chair. The Trust did used to have a combined role (and still has this flexibility in its Constitution) but it was decided to separate them into the two roles in 2014 as it was felt that this was more appropriate in terms of Board governance.

Remuneration for these roles

There is a supplementary payment of £1,250pa for each of these roles in addition to the annual NED remuneration. In 2020, the Governors' Nominations and Remuneration Committee undertook a review of all supplementary payments for NEDs against the NHSE/I remuneration structure for Provider Chairs and Non-Executive Directors and confirmed that these were still appropriate in line with the 'comply and explain' principle afforded to Foundation Trusts. The Committee is planning a comprehensive remuneration review this year and will report its recommendations to the Council of Governors.

Recommendations:

The Council of Governors is requested to:

1. Approve Sheila Newport as interim Deputy Trust Chair backdated to 1 July 2022.
2. Support the appointment of Ralph Knibbs as Senior Independent Director, backdated to 1 July 2022 in line with the revised role description.

Appendix A

DERBYSHIRE HEALTHCARE NHS FOUNDATION TRUST

SENIOR INDEPENDENT DIRECTOR (SID)

Role Description and Purpose

The NHS Foundation Trust Code of Governance recommends, in consultation with the Council of Governors, the Board should appoint one of the independent Non-Executive Directors (NED) to be the SID to provide a sounding board for the Chair and to serve as an intermediary for the other directors when necessary. The SID should be available to governors if they have concerns that contact through the normal channels of Chair, Chief Executive, Finance Director or Trust Secretary has failed to resolve, or for which such contact is inappropriate. The SID should lead the performance evaluation of the Chair.

Role Requirements

In addition to their duties as a Non-Executive Director, the role of the SID is to:

- Be available to directors, governors, and members of the Trust or other stakeholders, if they have concerns relating to matters, which contact through the normal channels of Chair and Chief Executive has failed to resolve, or where such contact is inappropriate
- Build strong relationships with governors, and in particular the Lead Governor, and be accessible to them when necessary.
- Attend a majority of formal Council of Governors and informal meetings between NEDs and governors
- Evaluate the Chair – the SID, along with the Lead Governor and supported by the Trust Secretary, will liaise with the Executive Directors, NEDs and governors, at least annually, to appraise the performance of the Chair, discuss the outcome with the Chair, and provide support as necessary
- Convene and chair meetings of the Board/ Council of Governors , or any part of those meetings, at which matters concerning the Chair are considered.

The SID has a key role in supporting the Chair in leading the Board of Directors and acting as a sounding board and source of advice for the Chair. The SID also has a role in supporting the Chair as Chair of the Council of Governors.

While the Council of Governors determines the process for the annual appraisal of the Chair, the SID is responsible for carrying out the appraisal of the Chair on their behalf as set out as best practice in the code of governance and other relevant guidance. In practice, the appraisal of the Chair will be carried out by the SID in consultation with the Lead Governor, who will be kept informed of the process, encourage feedback and input from the Council of Governors, and receive an update prior to the appraisal meeting of the key areas to be covered. The SID will report to

the Nominations and Remuneration Committee of the Council of Governors once the appraisal is completed, and then to the full Council of Governors.

The SID might also take responsibility for an orderly succession process for the Chair role where a reappointment or a new appointment is necessary. This will be in liaison with the Lead Governor and with the support of the Trust Secretary.

In rare cases where there are concerns by governors or NEDs about the performance of the Chair, the SID should provide support and guidance to the Council of Governors in seeking to resolve concerns or, in the absence of a resolution, in taking formal action. The SID should liaise with the Lead Governor in such circumstances.

In circumstances where the Board is undergoing a period of stress the SID has a vital role in intervening to resolve issues of concern. These might include unresolved concerns on the part of the Council of Governors regarding the Chair's performance; where the relationship between the Chair and Chief Executive is either too close or not sufficiently harmonious; where the Trust's strategy is not supported by the whole Board; where key decisions are being made without reference to the Board or where succession planning is being ignored. In the circumstances outlined above the SID will work with the Chair, other directors and/or governors, in particular the Lead Governor, to resolve significant issues.

Time Commitment

The Senior Independent Director will be expected to commit additional days per year to the role, over and above the time commitment to undertake the role of Non-Executive Director.

Remuneration

The level of fee will be determined by the Council of Governors. It is currently £1,250 pa payable in addition to the annual NED remuneration.

Appointment (removal) and duration of term

The Chair appoints (and removes) the SID in consultation with the governors and the other NEDs. The term of office for the SID shall ordinarily be the same as the term of office for which the NED (holding office as SID) has been appointed to the Board of Directors, unless the Chair proposes otherwise.

Eligibility/Restrictions

The Chair of the Trust is not eligible to be the SID. The Chair of the Audit and Risk Committee, ideally, should not be the SID.

Person Specification

	Essential	Desirable
Qualifications	A Non-Executive Director	
Knowledge and Experience	Knowledge and experience of undertaking appraisals.	
	Knowledge of governance and compliance	Experience of dispute resolution
Skills	Highly developed communication and negotiation skills	
Personal Qualities	Open and engaging	
	Independent	
	Candid	
Additional Requirements	Willingness to attend meetings of the Council of Governors	

Version: July 2022