

**EXTRAORDINARY MEETING OF THE COUNCIL OF GOVERNORS
HELD IN PUBLIC SESSION**

**TUESDAY 31 OCTOBER 2017
10.00 – 10:45
MEETING ROOM 1, ALBANY HOUSE
KINGSWAY, DERBY, DE22 3LZ**

AGENDA

SUBJECT MATTER		ENC	LED BY	TIME
1.	Welcome, introductions, apologies for absence and declaration of interests	-	Caroline Maley	10.00
STATUTORY ROLE				
2.	Approval of appointment of Non-Executive Director and Chair of Audit & Risk Committee	A	Caroline Maley	10.05
3.	Extension of the appointment of Barry Mellor, Non-Executive Director	B	Caroline Maley	10.20
CLOSING ITEMS				
4.	Meeting effectiveness	-	Caroline Maley	10.30
5.	Any other business	-	Caroline Maley	10.40
6.	Close of meeting	-	Caroline Maley	10.45
FOR INFORMATION				
Next Public Meeting: 10:30 – 1.30 pm on Wednesday 22 November 2017 in Training Rooms 1 and 2, Research Centre, Kingsway, Derby, DE22 3LZ				

Derbyshire Healthcare NHS Foundation Trust

Report to the Extraordinary Council of Governors – 31 October 2017

Governors Nominations & Remuneration Committee Recommendation to Appoint Non-Executive Director/Chair of Audit & Risk Committee

Purpose of Report

For the Council of Governors to consider the recommendation of the Nominations & Remuneration Committee to appoint a Non-Executive Director who will also become Chair of the Audit & Risk Committee.

Executive Summary

A competitive recruitment process has been undertaken for the recruitment of a Non-Executive Director who will also be appointed as Chair of the Trust's Audit & Risk Committee, to replace Barry Mellor.

Following a long list and short list process, three candidates were interviewed by the Governors Nominations & Remuneration Committee on 25 October 2017 with an interview panel comprising:

Caroline Maley	Trust Chair
Moirra Kerr	Public Governor
Paula Holt	Appointed Governor, University of Derby
Carole Riley	Public Governor & Deputy Lead Governor
Sam Harrison	Director of Corporate Affairs & Trust Secretary (Observer)
Moirra Johnston	NHS Leadership Academy Executive Search (Observer)

Following interviews the Committee formally convened. It was agreed that all candidates were appointable. However, the Committee was unanimous in its decision to recommend the appointment as outlined. Subject to the approval of the Council of Governors, Geoff Lewins will commence in role as soon as possible, subject to confirmation of satisfactory completion of Fit and Proper Persons Checks and receipt of references. The process undertaken by the Nominations & Remuneration Committee is outlined in Appendix 1.

The constitutional context of this appointment is outlined in the Governance or Legal Issues section of the report.

Strategic Considerations

1) We will deliver quality in everything we do providing safe, effective and service user centred care	
2) We will develop strong, effective, credible and sustainable partnerships with key stakeholders to deliver care in the right place at the right time	
3) We will develop our people to allow them to be innovative, empowered, engaged and motivated. We will retain and attract the best staff.	x
4) We will transform services to achieve long-term financial sustainability.	

Assurances

The recruitment process followed has been supported by an external recruitment consultancy - the NHS Leadership Academy Executive Search.

Consultation

Governors, through the Nomination and Remuneration Committee, have been involved in oversight of the recruitment process and directly involved in longlisting, 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 Chairman of the Trust and the other Non-Executive Directors.

Annex 5 of the Trust's Constitution (Council of Governors - Additional Provisions) states that - The functions of the Nominations [and Remuneration] Committee for the appointment of Non-Executive Directors shall be as follows:

- 9.1 A committee, chaired by the Chair, shall be established to assist the Council of Governors with the nomination and selection of the Non-Executive Directors (the "Nomination Committee for Non-Executive Directors"). In the case of the nomination and selection of the Chair the Nominated Committee for Non-Executive Directors shall be chaired by the Deputy Chair.
- 9.2 The Nominations Committee for Non-Executive Directors will comprise:
- 9.2.1 the Chairman (or, if the Chairman is not available, the Deputy Chairman or one of the other Non-Executive Directors who is not standing for appointment);
 - 9.2.2 four Elected Governors including Public Governors and Staff Governors and two Appointed Governors; [This has recently been amended to six governors by resolution of the Council of Governors].
 - 9.2.3 no two Governors will be appointed from the same Public Constituency or Staff Class of the Staff Constituency,
 - 9.2.4 not more than one may be a Local Authority Governor and not more than one may be a Governor appointed by the voluntary sector.

- 9.3 A committee may be established to assist the Council of Governors with the remuneration of the Chairman and Non-Executive Directors (the "Remuneration Committee for Non-Executive Directors").
- 9.4 The functions of the Nominations Committee for Non-Executive Directors shall be as follows:
- 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.
- (9.5 not used in the Constitution)
- 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 Chairman 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

The author has a responsibility to consider the equality impact and evidence on the nine protected characteristics – Race, Economic disadvantage, Gender, Age, Religion or belief, Disability and Sexual orientation (REGARDS).

There are no adverse effects on people with protected characteristics (REGARDS).	x
There are potential adverse effect(s) on people with protected characteristics (REGARDS). Details of potential gaps/inequalities are outlined below, with the appropriate action to mitigate or minimise those risks.	

Actions to Mitigate/Minimise Identified Risks
N/A

<p>Recommendations</p> <p>The Council of Governors is requested to:</p> <ol style="list-style-type: none"> 1. Approve the appointment of Geoff Lewins as Non-Executive Director of the Trust Board for a three year term of office at an annual fee of £12,638. 2. Approve the appointment of Geoff Lewins as Chair of the Trust's Audit & Risk Committee with an additional annual fee of £2,500 (total annual fee of £15,138). 3. Note that any appointment is subject to satisfactory completion of the Fit and Proper Persons Tests as set out in Appendix 2.

Report presented by **Carole Riley, Deputy Lead Governor and member of Governors Nomination & Remuneration Committee**

Report prepared by **Samantha Harrison, Director of Corporate Affairs & Trust Secretary**
Donna Cameron, Assistant Trust Secretary

APPENDIX 1**Background**

Barry Mellor was appointed as NED and Chair of Audit & Risk Committee on 19 November 2016 for a one year period. The decision to appoint for a fixed term was a reflection of the Trust's circumstances at the time in respect of the potential transaction with Derbyshire Community Healthcare Services NHS Foundation Trust. As the end of his term approached, Barry confirmed that he would not wish to be reappointed for a further term (of three years). Therefore a replacement would be required.

At its meeting on 21 July 2017, the Governors Nominations & Remuneration Committee agreed to a proposal from the Remuneration & Appointments Committee to utilise the professional advice and services of NHS Leadership Academy in the recruitment of this role.

Development of the person specification and role requirements

At a meeting on 16 August 2017 the Committee reviewed the current job description and person specification for this role. Giving due consideration to the balance of skills on the Board, skills, knowledge and experience on the Board and those required for this role, it was agreed that the current job description and person specification would be used for the recruitment. A timeline for recruitment was proposed and accepted, as was a proposed advertising plan. It was also agreed to replicate the interview and assessment process as used for the Chair position. Initial discussions were held regarding participation in the interview process.

Longlisting process

A competitive recruitment process was undertaken. When the deadline closed on 9 October, 33 applications has been received. The Governors Nominations Remuneration Committee received a longlisting report on 10 October along with full applications of the 16 top rated applicants.

Shortlisting process meeting

The Committee met to shortlist on 18 October. Members present at the meeting were Caroline Maley, John Morrissey, Moira Kerr, Carole Riley, Kelly Sims, Kevin Richards and Paula Holt. In attendance were Sam Harrison and Moira Johnson. Of the top 16, those candidates not eligible to be members of the Trust were rejected. The remaining candidates were reviewed and proposed candidates for interview debated and agreed. It was agreed to invite four candidates for interview. Governors discussed and agreed questions for the interview and stakeholder groups. One group would comprise of Board and Staff members. The other group to be comprised of governors, members and stakeholder representatives.

The interview process

It was agreed that two stakeholder groups would be convened to discuss informal topics with the candidates as part of the interview process. These stakeholder groups were to consist of governors, staff and stakeholders. Each group gave qualitative feedback to the interview panels prior to the formal interview to help

inform the overall recruitment decision. The groups and panels are outlined below. Candidates were made aware of the topic when they entered the room.

Group 1: Board Members
 Topic:
 Members: Claire Wright, Deputy Chief Executive & Finance Director
 Barry Mellor, Non-Executive Director
 Sam Harrison, Director of Corporate Affairs & Trust Secretary
 Lynn Wilmott-Shepherd, Interim Director of Strategic Development

Group 2: Governors and Stakeholders
 Topic:
 Members: April Saunders, Staff Governor
 Kevin Richards, Public Governor
 Holly Cooke, Young Person Representative
 Ed Burgess, Young Person Representative
 Advisor: Moira Johnston, NHS Leadership Academy

Interview Panel

Members: Caroline Maley, Trust Chair
 Moira Kerr, Public Governor
 Paula Holt, Appointed Governor
 Carole Riley, Public Governor
 Advisor: Sam Harrison, Director of Corporate Affairs & Trust Secretary
 Moira Johnson, NHS Leadership Academy Executive Search

The panel had identified questions to ask of each candidate from a selection proposed by the NHS Leadership Academy along with additional questions suggested by panel members themselves. Feedback from each of the Groups was also received and considered. Questions to follow up on performance in each of the groups were developed based on feedback from the Chair of each group.

Following interview, the Committee formally convened and discussed each candidate in turn. Discussions included consideration of skills, experience, values, motivation and organisational fit. Remuneration and terms of appointment were also discussed and agreed. The following recommendation was duly agreed to be presented by the Governors' Nomination and Remuneration Committee to the Council of Governors, as per clause 9.4 of the Trust's Constitution.

Recommendation

To approve the appointment of Geoff Lewins as Non-Executive Director of the Trust for a three year term, at an annual fee of £12,638 with an additional annual fee of £2,500 for the position of Audit & Risk Chair (total annual fee of £15,138).

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.

APPENDIX 3

**BIOGRAPHICAL SUMMARY
GEOFF LEWINS**

Geoff has over 30 years' experience in a variety of Finance, IT and Governance roles, the majority of which has been for Rolls Royce, up until 2013. As Director of Financial Strategy, he was responsible for development and implementation of a portfolio of improvement projects and initiatives to improve the performance of the global finance function. He also sat on several company level governance boards covering systems implementations, quality, process improvement and anti- bribery and corruption. He is currently a Trustee of the Arkwright Society, focusing around finance and working with the finance team to ensure the correct risk and governance structures are in place. Geoff is a qualified accountant and his interest in the role lies in that he sees it as an opportunity to use the skills and experience that he has built up during his professional life to put something back into the community.

Derbyshire Healthcare NHS Foundation Trust

Report to the Extraordinary Meeting of the Council of Governors – **31 October 2017**

Extension of the Appointment of Barry Mellor Non-Executive Director

Purpose of Report

To consider the extension of the appointment of Barry Mellor, Non-Executive Director

Executive Summary

Barry Mellor was appointed as NED on 19 November 2016 for a one year period. The decision to appoint for a fixed term was a reflection of the Trust's circumstances at the time in respect of the potential transaction with Derbyshire Community Healthcare Services NHS Foundation Trust.

On Wednesday 25 October 2017, interviews were held to appoint a new Non-Executive Director who will take over as Chair of Audit & Risk Committee following Barry's departure. As there is likely to be a gap until (enter candidate name here) can join the Trust and all necessary Fit & Proper Person checks can be completed, Nominations & Remuneration Committee recommends that Barry Mellor's appointment is extended to 31 December 2017 to provide the Board and Audit and Risk Committee with continuity and stability. Barry Mellor has confirmed that he is content to continue in the role.

Strategic Considerations (All applicable strategic considerations to be marked with X in end column)

1) We will deliver quality in everything we do providing safe, effective and service user centred care	x
2) We will develop strong, effective, credible and sustainable partnerships with key stakeholders to deliver care in the right place at the right time	x
3) We will develop our people to allow them to be innovative, empowered, engaged and motivated. We will retain and attract the best staff.	x
4) We will transform services to achieve long-term financial sustainability.	x

Assurances

The recommendation of the re-appointment/extension of Non-Executive Directors is a role of the Governors Nominations & Remuneration Committee. This request has been discussed and recommended by the Committee, in line with its Terms of Reference.

Consultation

This has been discussed by Governors Nominations & Remuneration Committee at its meeting on 10 October 2017.

Governance or Legal Issues

A NED's term of office should be for no longer than 3 years. A NED may then seek a further term of office. The Foundation Trust Code of Governance states that NEDs may serve more than six years (ie equivalent to 2 terms) subject to annual re-appointment. The Code makes clear that this should be the exception rather than the norm and as such annual re-appointment beyond the six year period be in exceptional circumstances only. Therefore, there are no governance or legal issues in re-appointing Barry Mellor at this time.

Public Sector Equality Duty & Equality Impact Risk Analysis

The author has a responsibility to consider the equality impact and evidence on the nine protected characteristics (REGARDS people).

There are no adverse effects on people with protected characteristics (REGARDS).	x
There are potential adverse effect(s) on people with protected characteristics (REGARDS). Details of potential variations /inequalities in access, experience and outcomes are outlined below, with the appropriate action to mitigate or minimise those risks.	

Actions to Mitigate/Minimise Identified Risks**Recommendations**

The Council of Governors is requested to:

1. Accept the recommendation to extend the appointment of Barry Mellor from 19 November 2017 to the appointment date of his replacement, with a limit of 31 December 2017.

Report presented by: Caroline Maley, Trust Chair

Report prepared by: Sam Harrison, Director of Corporate Affairs
& Trust Secretary
Donna Cameron, Assistant Trust Secretary