

	8	Board of Governors	
Schedule 1, paragraph 7(1) and paragraph 9	8.1	The Trust is to have a board of governors. It is to consist of public governors, staff governors, PCT governors, local authority governors, University governors, other Partnership governors and Advisers.	
	8.2	The board of governors of the Trust is to include-	
		(a) 7 public governors.	
		(b) 8 patient governors	
Schedule 1, paragraph 9(2)		(c) 4 staff governors.	
Schedule 1, paragraph 9(3)		(d) 2 PCT governors.	
Schedule 1, paragraph 9(4)		(e) 2 Local Authority Governors.	
Schedule 1, paragraph 9(5)		(f) 2 University governors.	
Schedule 1, paragraph 9(6)		(g) 3 other partnership governors.	
		(h) up to 6 Advisers.	
Schedule 1, paragraph 9(1)	8.2.1	The aggregate number of members of public governors and patient governors is to be more than half the total membership of the board excluding Advisers.	
Schedule 1, paragraph 9(6)	8.3	The organisations specified as partnership organisations that may appoint a member of the board of governors are:	
		(a) Other educational institutions involved in the education of health staff listed for the purposes of this paragraph in Annex 7 (1 governor)	
		(b) Research Councils and Research Funding Charities listed for the purposes of this paragraph in Annex 7 (1 governor)	
		(c) Regional Development Agency or equivalent institution listed for the purposes of this	

paragraph in Annex 7 (1 governor)

Or in each case such other organisations as may be the successors to their functions.

8.3A The validity of any act of the Trust is not affected by any vacancy among the governors or by any defect in the appointment of any governor.

8.4 **Public governors**

Schedule 1,
paragraph
7(4)

8.4.1 Members of the public constituency may elect any of their number to be a public governor.

8.4.2 If insufficient valid nominations are received for the vacant public governor posts, the Trust may appoint those members who have been nominated while it seeks further nominations for the remaining unfilled posts.

Section
35(5)

8.4.3 If contested, the election must be by secret ballot.

See
Schedule 1,
paragraph
14(1)(a) and
Section
36(1) and
(2)

8.4.4 Subject to such variations, additions and deletions as the Secretary may consider desirable to comply with regulations made under the 2003 Act and, pending the making of such regulations, guidance issued by the Independent Regulator and/or the Department of Health, the Election Scheme, including the option available to the Board of Governors for the filling of a Casual Vacancy, the specified forms of and periods for declarations to be made by candidates standing for office and members as a condition of voting and the process if the election is uncontested, is set out in Annex 3, Part 1

Section
36(2), (5)
and (6)

8.4.5 A person may not stand for election to the board as a public governor unless, within the period specified in Annex 3, Part 1, he has made a declaration in the form specified in that Part of that Annex of the particulars of his qualification to vote as a member of the public constituency and is not prevented from being a member of the board by paragraph 8 of Schedule 1 to the 2003 Act or paragraph 8.12 below (disqualification). It is an offence to knowingly or recklessly make a declaration under section 36 of the 2003 Act which is false in a material particular.

8.4.6 Paragraph 7.6.1 (voting at governor elections) applies.

8.4A **Patient governors**

Schedule 1, paragraph 7(4)	8.4A.1	Members of the patient constituency may elect any of their number to be a patient governor.
	8.4A.2	If insufficient valid nominations are received for the vacant patient governor posts, the Trust may appoint those members who have been nominated while it seeks further nominations for the remaining unfilled posts.
Section 35(5)	8.4A.3	If contested, the election must be by secret ballot.
See Schedule 1, paragraph 14(1)(a) and section 36(1) and (2)	8.4A.4	Subject to such variations, additions and deletions as the Secretary may consider desirable to comply with regulations made under the 2003 Act and pending the making of such regulations, guidance issued by the Independent Regulator and/or the Department of Health the Election Scheme, including the specified forms of and periods for declarations to be made by candidates standing for office and members as a condition of voting and the process if the election is uncontested, is set out in Annex 3, Part 2.
Section 36(2),(5) and (6)	8.4A.5	A person may not stand for election to the board as a patient governor unless, within the period specified in Annex 3, Part 2, he has made a declaration in the form specified in that Part of that Annex of the particulars of his qualification to vote as a member of the patients' constituency and is not prevented from being a member of the board by paragraph 8 of Schedule 1 to the 2003 Act or paragraph 8.12 below (disqualification). It is an offence knowingly or recklessly to make a declaration under section 36 of the 2003 Act which is false in a material particular.
	8.4A.6	Paragraph 7.6.1 (voting at governor elections) applies.

8.5 Staff governors

Schedule 1, paragraph 7(4)	8.5.1	Members of the staff constituency may elect any of their number to be a staff governor.
	8.5.2	If insufficient valid nominations are received for the vacant staff governor posts, the Trust may appoint those members who have been nominated while it seeks further nominations for the remaining unfilled posts.
Section	8.5.3	If contested, the election must be by secret ballot.

35(5)

See
Schedule 1,
paragraph
14(1)(a)

8.5.4 Subject to such variations, additions and deletions as the Secretary may consider desirable to comply with regulations made under the 2003 Act and pending the making of such regulations, guidance issued by the Independent Regulator and/or the Department of Health the Election Scheme, including the specified forms of and periods for declarations to be made by candidates standing for office and members as a condition of voting and the process if the election is uncontested, is set out in Annex 3, Part 3

Section
36(2),(5)and
(6)

8.5.5 A person may not stand for election to the board as a staff governor unless, within the period specified in Annex 3, Part 3, he has confirmed in such form as the Secretary of the Trust determines that he is not prevented from being a member of the board by paragraph 8(1) of Schedule 1 to the 2003 Act.

8.5.6 Paragraph 7.6.2 (voting at governor elections) applies.

8.6 **PCT governors**

See
Schedule 1,
paragraphs
14 (1)(b)
and 9(3)

8.6.1 Each of the Primary Care Trusts listed in Annex 4 is authorised to appoint a PCT governor pursuant to a process agreed by those Primary Care Trusts and the Trust.

8.7 **Local Authority governors**

See
Schedule 1,
paragraphs
14(1)(b) and
9(4)

8.7.1 Each of the local authorities listed in Annex 5 is authorised to appoint a Local Authority governor pursuant to a process agreed by those local authorities and the Trust.

8.8 **University governors**

See
Schedule 1,
paragraph
14 (1)(b)

8.8.1 The universities listed in Annex 6 are authorised to appoint 2 University Governors pursuant to a process agreed by those universities and the Trust.

8.9 **Other partnership governors and Advisers**

See
Schedule 1,
paragraphs
9(6) and
14(1)(b)

8.9.1 (a) The first-named organisation listed in Annex 7 for the purposes of paragraph 8.3 (a) is authorised to appoint 1 partnership governor by agreement with the other organisations listed in Annex 7 for the purposes of paragraph 8.3 (a) pursuant to a process agreed by those

organisations and the Trust.

(b) The first-named organisation listed in Annex 7 for the purposes of paragraph 8.3 (b) is authorised to appoint 1 partnership governor by agreement with the other organisations listed in Annex 7 for the purposes of paragraph 8.3 (b) pursuant to a process agreed by those organisations and the Trust.

(c) The first-named organisation listed in Annex 7 for the purposes of paragraph 8.3 (c) is authorised to appoint 1 partnership governor by agreement with the other organisations listed in Annex 7 for the purposes of paragraph 8.3 (c) pursuant to a process agreed by those organisations and the Trust

8.9.2 The Chairman shall put forward to the Board of Directors in accordance with the process agreed by the Secretary individuals to be Advisers. The Board of Directors shall select up to six Advisers from those put forward and recommend them to the Board of Governors for appointment. The Board of Governors shall make the final decision whether to appoint those recommended. For the avoidance of doubt, the Advisers shall have no voting rights and shall act in an advisory capacity only when carrying out their functions relating to the Trust.

8.10 Terms of office

8.10.1 Public governors-

Schedule 1,
paragraph
10(1)

(a) may hold office for a period of three years, subject to paragraph 8.10.8;

Schedule 1,
paragraph
10(2)

(b) are eligible for re-election at the end of their period of office, subject to paragraph 8.10.1(c);

Schedule 1,
paragraph
14(2)

(c) may not compete for re-election if they have held office for nine or more consecutive years;

Schedule 1,
paragraph
10(3)

(d) cease to hold office if they cease to be a member of the public constituency.

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8.10.1A Patient governors-

Schedule 1,
paragraph
10(1)

(a) may hold office for a period of three years, subject to paragraph 8.10.9;

Schedule 1,
paragraph
10(2)

(b) are eligible for re-election at the end of their period of office, subject to paragraph 8.10.1A(c);

Schedule 1,
paragraph
14(2)

(c) may not ~~compete for re-election if they have held office for nine or more consecutive years;~~

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Schedule 1,
paragraph
10(3)

(d) cease to hold office if they cease to be a member of the patients' constituency.

8.10.2 Staff governors-

Schedule 1,
paragraph
10(1)

(a) may hold office for a period of three years, subject to paragraph 8.10.10;

Schedule 1,
paragraph
10(2)

(b) are eligible for re-election at the end of their period of office, subject to paragraph 8.10.2(c);

Schedule 1,
paragraph
14(2)

(c) ~~may not compete for re-election if they have held office for nine or more consecutive years;~~

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Schedule 1,
paragraph
10(3)

(d) cease to hold office if they cease to be a member of the staff constituency.

8.10.3 PCT governors-

Schedule 1,
paragraph
14(2)

(a) may hold office for a period of three years;

Schedule 1,
paragraph
14(2)

(b) are eligible for reappointment at the end of that period;

Schedule 1,
paragraph
14(2)

(c) may not hold office for longer than nine years; and

Schedule 1,
paragraph
14(2)

(d) shall cease to hold office if the sponsoring primary care trust withdraws its sponsorship of them.

8.10.4 Local Authority governors-

Schedule 1,
paragraph
14(2)

(a) may hold office for a period of three years;

Schedule 1,
paragraph
14(2)

(b) are eligible for reappointment at the end of that period;

Schedule 1,
paragraph
14(2)

(c) may not hold office for longer than nine years; and

(d) shall cease to hold office if the sponsoring local authority withdraws its sponsorship of them.

8.10.5 University governors-

Schedule 1,
paragraph
14(2)

(a) may hold office for a period of three years;

Schedule 1,
paragraph
14(2)

(b) are eligible for reappointment at the end of that period;

Schedule 1,
paragraph
14(2)

(c) may not hold office for longer than nine years; and

(d) shall cease to hold office if the sponsoring university withdraws its sponsorship of them.

8.10.6 Other partnership governors-

Schedule 1,
paragraph
14(2)

(a) may hold office for a period of three years;

Schedule 1,
paragraph
14(2)

(b) are eligible for reappointment at the end of that period;

Schedule 1,
paragraph
14(2)

(c) may not hold office for longer than nine years; and

Schedule 1,
paragraph
14(2)

(d) shall cease to hold office if the sponsoring partnership organisation withdraws its sponsorship of them.

Schedule 1,
paragraph
14(2)

8.10.7 Advisers

Schedule 1,
paragraph
14(2)

Schedule 1,
paragraph
14(2)

(a) may hold office for a period of three years;

Schedule 1,
paragraph
14(2)

(b) are eligible for reappointment at the end of that period;

Schedule 1,
paragraph
14(2)

(c) may not hold office for longer than nine years; and

Schedule 1,
paragraph
14(2)

(d) shall cease to hold office if removed by resolution of the Board of Governors.

8.10.8 The first Public Governors-

(a) shall hold office for an initial period of three years, in the case of the two candidates gaining the most votes at the first election for public governors;

(b) shall hold office for an initial period of two years, in the case of the three candidates gaining the next most votes at the first election for public governors; and

(c) in the case of the remaining candidates elected at the first election of public governors, shall hold office for an initial period of one year.

8.10.9 The first Patient Governors-

(a) shall hold office for an initial period of three years, in the case of the three candidates gaining the most votes at the first election for patient governors;

(b) shall hold office for an initial period of two years, in the case of the two candidates gaining the next most votes at the first election for patient governors; and

(c) in the case of the remaining candidates elected at the first election of patient governors, shall hold office for an initial period of one year.

8.10.10 The first Staff Governors-

(a) shall hold office for an initial period of three years, in the case of the two candidates gaining the most votes at the first election

for staff governors;

- (b) shall hold office for an initial period of two years, in the case of the candidate gaining the next most votes at the first election for staff governors; and
- (c) in the case of the remaining candidate elected at the first election of staff governors, shall hold office for an initial period of one year.

8.11 Termination of tenure

Schedule 1,
paragraph
14 (1)(d)

- 8.11.1 A governor may resign from that office at any time during the term of that office by giving notice in writing to Secretary.
- 8.11.2 If a governor fails to attend three successive meetings of the Board of Governors, his tenure of office is to be immediately terminated unless the other governors are satisfied that —
 - (a) the absence was due to a reasonable cause; and
 - (b) he will be able to start attending meetings of the Trust again within such a period as they consider reasonable.
- 8.11.3 A Governor may be removed by the Board of Governors by a resolution approved by not less than three quarters of the remaining governors present at that meeting on the grounds that:
 - (a) they have committed a serious breach of the Code of Conduct for the Board of Governors; or
 - (b) they have acted in a manner detrimental to the interests of the Trust, and
 - (c) the Board of Governors consider it is not in the best interests of the Trust, as defined in paragraph 8.12.1(j) below, for them to continue as Governor.

8.12 Disqualification

Schedule 1,
paragraphs
8 and 10(3)

- 8.12.1 A person may not become or continue as a governor of the Trust or an Adviser if-
 - (a) in the case of a staff governor, public governor or patient governor, he ceases to be a member of the constituency he represents;
 - (b) in the case of a PCT Governor, Local Authority Governor, University Governor, Local Authority or other Partnership Governor, the sponsoring PCT, local authority, university or organisation withdraw their sponsorship of him;

(c) he has been adjudged bankrupt or his estate has been sequestrated and in either case he has not been discharged;

(d) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;

(e) he has within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on him;

(f) he has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;

(g) he is a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that his appointment is not in the interests of the health service, for non attendance at meetings, or for non-disclosure of a pecuniary interest;

(h) he is a Director of the Trust or a governor, non-executive director, chairman, chief executive officer or other executive director of an organisation the nature of whose business is to give rise to potential conflicts of interest to such a degree as to prevent the person from the proper exercise of their duties as a Governor of this Trust. This may include other NHS Foundation Trusts;

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Deleted: (h) he is a Director of the Trust, or (except in relation to an Adviser) a governor, non-executive director, chairman, chief executive officer or other executive director of another NHS foundation trust;

(i) he has had his name removed, by a direction under section 46 of the 1977 Act from any list prepared under Part II of that Act or has otherwise been disqualified or suspended from any healthcare profession, and has not subsequently had his name included in such a list or had his qualification re-instated or suspension lifted (as applicable);

(j) he fails to or indicates that he is unwilling to act in the best interests of the Trust in accordance with The Seven Principles of Public Life laid out by the Committee on Standards in Public Life in its First Report as amended from time to time. In fulfilling this role, the Trust acknowledges that the governor is representing the interests of NHS

foundation trust members or partner organisations in the local health economy. Acting in the best interests of the Trust and engaging in constructive debate and challenge on behalf of the constituency a governor represents are not mutually exclusive. Only actions deemed by the Board of Governors or Directors to be malicious or destructive will be viewed as failing to act in the best interests of the Trust;

(k) fails to agree (or, having agreed, fails) to abide by the values of the Trust Principles;

(l) they are the subject of a Sex Offender Order; or

(m) if within the last 5 years they have been involved in a serious incident of violence at any of the Trust's hospitals or facilities or against any of the Trust's employees or registered volunteers.

8.12.2 Where a person has been elected or appointed to be a governor or an Adviser and he becomes disqualified for appointment under paragraph 8.12.1, he shall notify the Secretary in writing of such disqualification.

If it comes to the notice of the Secretary at the time of his appointment or later that the governor or Adviser is so disqualified, he shall immediately declare that the person in question is disqualified and notify him in writing to that effect.

Upon receipt of any such notification, that person's tenure of office, if any, shall be terminated and he shall cease to act as a governor or Adviser, as the case may be.

8.13 **Vacancies**

Schedule 1,
paragraph
14(2)

8.13.1 Where membership of the Board of Governors ceases because he ceases for one of the reasons set out in paragraph 7.5.1 or paragraph 8.11 or paragraph 8.12, Public, Patient and Staff Governors shall be replaced in accordance with the Electoral Schemes set out in Annex 3, and PCT Governors, Local Authority Governors, University Governors, other partnership Governors and Co-opted Governors are to be replaced in accordance with the processes agreed pursuant to paragraphs 8.6 to 8.9.

8.14 **Roles and responsibilities of Governors**

Schedule 1, paragraph 17(1)	8.14.1	The roles and responsibilities of the governors are-
Schedule1, paragraph 18(1)		(a) at a General Meeting – (i) to appoint or remove the chairman and the other non-executive directors. The removal of a non-executive director requires the approval of three-quarters of the members of the board,
Schedule 1, paragraph 23(2)		(ii) to decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors,
Schedule 1, paragraph 28		(iii) to appoint or remove the Trust's auditor at a general meeting of the board,
Schedule, 1, paragraph 17(4)		(iv) to be presented with the annual accounts, any report of the auditor on them and the annual report;
Schedule 1, paragraphs 17(4) and (19)(1), (5) and (6)		(b) to approve (by a majority of the board of governors voting) an appointment (by the non-executive directors) of the chief executive other than the initial chief executive of the Trust appointed in pursuance of paragraph 19(6) of Schedule 1 to the 2003 Act;
Schedule 1, paragraph 27(3)		(c) to give the views of the board of governors to directors for the purposes of the preparation (by the directors) of the document containing information as to the Trust's forward planning in respect of each financial year to be given to the independent Regulator;
Schedule 1, paragraph 28		(d) to consider the annual accounts, any report of the auditor on them and the annual report; (e) to respond as appropriate when consulted by the directors; and (f) to keep under review the Trust Principles and vary from time to time in accordance with the provisions of the Constitution.

	8.15	Expenses	
Schedule 1, paragraph 11	8.15.1	The Trust may pay travelling and other expenses to governors at such rates as it decides. These are to be published in the Trust's annual report.	
	8.15.2	The remuneration and allowances for non-executive Directors set by the governors are also to be published in The Trust's annual report.	
	8.16	Remuneration	
	8.16.1	Governors are not to receive remuneration.	
	8.17	Meetings	
Schedule 1, paragraph 12	8.17.1	The chairman of the Trust or, in his absence, the deputy chairman (if any) of the board of governors or, in his absence, the vice-chairman of the Trust or another non-executive director is to preside at meetings of the board of governors and will have a casting vote.	<div style="border: 1px solid red; padding: 2px; margin-bottom: 2px;">Deleted: vice-chairman</div> <div style="border: 1px solid red; padding: 2px;">Deleted: Trust</div>
	8.17.2	Where the chairman, deputy chairman , vice-chairman and other non-executive directors are all absent or have a conflict of interest, a representative appointed from amongst the governors attending that meeting of the board of governors shall preside at the meeting and shall have a casting vote.	<div style="border: 1px solid red; padding: 2px; margin-bottom: 2px;">Deleted: the deputy chairman (to be</div> <div style="border: 1px solid red; padding: 2px;">Deleted:)</div>
Schedule 1, paragraph 13(1) and (2)	8.17.3	Meetings of the board of governors are to be open to members of the public except in the following circumstances-	
		(a) The board of governors resolving that representatives of the press and other members of the public be excluded from the remainder of a meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest ;	
		(b) The board of governors resolving that in the interests of public order the meeting adjourn for a period to be specified in such resolution to enable the board to complete business without the presence of the public.	
	8.17.4	The board of governors is to meet no less frequently than 3 times per year.	

Schedule 1,
paragraph
28

8.17.5 At a general meeting, in September or, if later, in the month following the month in which the audit of the Trust's annual accounts is completed, the board of governors is to receive and consider the annual accounts, any report of the auditor on them, and the annual report.

8.17.6 The board of governors is to adopt and may from time to time amend its own standing orders for its practice and procedure, in particular for its procedure at meetings (including general meetings), but these shall be in accordance with Annex 2.

Section
36(3) and
(4)

8.17.7 A governor elected to the board by the public constituency or the patients' constituency may not vote at a meeting of the board unless, within the seven days prior to the date of the meeting he has made a declaration in the form specified at paragraph 8.17.8 stating which constituency he is a member of and is not prevented from being a member of the board by paragraph 8 of Schedule 1 to the 2003 Act or under this constitution.

Section
36(5)

8.17.8 The form referred to in paragraph 8.17.7 is set out in Part 2 of Annex 8, with such variations, additions and deletions as may be necessary to conform with overriding provisions of regulations made under the 2003 Act or guidance issued by the Independent Regulator and/or the Department of Health.

8.17.9 A governor elected to the board by the staff constituency may not vote at a meeting of the board unless within the seven days prior to the date of the meeting he has made a declaration in such form as the Secretary of the Trust determines that he is a member of the staff constituency and not prevented from being a member of the board by paragraph 8(1) of Schedule 1 to the 2003 Act.

8.18 **Committees and sub-committees**

8.18.1 The board of governors may appoint committees consisting of its members to assist it in carrying out its functions. A committee appointed under this paragraph may appoint a sub-committee.

8.18.2 The board of governors may not delegate any of its powers to these committees or sub-committees

8.19 **Conflicts of interest of Governors**

8.19.1 If a governor has a pecuniary interest, whether direct or indirect, ~~or where there could be a perception of conflict of interest~~, in any contract, proposed contract or other matter which is under consideration by the board ~~(or any committee or sub-committee established under paragraph 8.18)~~, he shall disclose that to the rest of the ~~board (or committee)~~ as soon as he is aware of it. The board of Governors, shall adopt Standing Orders specifying the arrangements for excluding Governors from discussion or consideration of the contract or other matter, as appropriate.

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8.19.2 ~~Interests which should be regarded as "relevant and material" would include, but are not limited to:~~

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(a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies).

(b) Ownership, part-ownership or directorship of private companies, business or consultancies likely or possibly seeking to do business with the NHS.

(c) ~~A material interest through~~ share holdings in organisations likely or possibly seeking to do business with the NHS.

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(d) A position of authority in a charity or voluntary organisation in the field of health and social care.

(e) Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services.

(f) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust, including but not limited to, lenders or banks.

However, the ~~Trust~~ will interpret the phrase "relevant and material" in accordance with guidance issued from time to time by the Independent Regulator.

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