

## **17. Council of Governors – disqualification and removal**

17.1 A person may not become or continue as a Governor if:

- 1.1.1** s/he is a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986);
- 1.1.2** the individual is under sixteen years of age when the nomination date for the election to the Council of Governors closes;
- 1.1.3** the individual meets any of the criteria set out in paragraph 11 which shall apply equally to Elected and Appointed Governors of the Trust;
- 1.1.4** the individual is a Director of the Trust, or a governor, executive director, non-executive director, chairman, chief executive of another NHS foundation trust, or other Health Service Body (unless they are appointed by a Partnership Organisation which is an NHS body);
- 1.1.5** the individual has been a Director of the Trust in the preceding five years prior to the date of his/her nomination to stand as an Elected Governor, or in the case of an Appointed Governor, the date of his/her appointment;
- 1.1.6** the individual is an employee of, consultant to or office holder of:
  - 1.1.6.1** Monitor; or
  - 1.1.6.2** the Care Quality Commission, or successor organisation; or
  - 1.1.6.3** the Health & Safety Executive; or
  - 1.1.6.4** any company which provides an Internal Audit or External Audit service to the Trust;
- 1.1.7** the individual is incapable by reason of his/her mental disorder, illness or injury of managing and/or administering his/her property and/or affairs;
- 1.1.8** the individual has refused, without reasonable cause, to undertake any training which the Trust and/or Council of Governors requires all Governors to undertake;
- 1.1.9** the individual has failed to sign and deliver to the Secretary a statement in the form required by the Trust confirming acceptance of the Governors' Code of Conduct;
- 1.1.10** the individual is a person who, by reference to information revealed by a Disclosure and Barring Service check, is considered by a panel comprising the Chairman, three Governors (ideally including the Lead Governor or Deputy Lead Governor) and the Secretary to be inappropriate on the grounds that his/her appointment might adversely affect public confidence in the Trust or otherwise might bring the Trust into disrepute;

- 1.1.11 the relevant Partnership Organisation which s/he represents ceases to exist;
- 1.1.12 the individual has been expelled from the post of governor from another NHS foundation trust;

the individual is an active member of a body or organisation with policies or objectives such that his/her membership thereof would likely cause the Trust to be in breach of its statutory obligations or to bring the Trust into disrepute

## **ANNEX 5 – ELIGIBILITY AND DISQUALIFICATION CRITERIA FOR GOVERNORS AND DIRECTORS**

(Paragraphs 17 and 35)

1.1 A person may not become or continue as a member of the Council of Governors or the Board of Directors if the individual:

- a) has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
- b) has made a composition or arrangement with, or granted a trust deed for, his/her creditors and has not been discharged in respect of it;
- c) has within the preceding five years has been convicted anywhere in the world of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him/her;
- d) has, within the preceding two years, been dismissed (otherwise than by reason of redundancy or ill health) from any paid employment within a Health Service Body, unless the dismissal was found to be unfair on appeal;
- e) tenure of office as the chairman or director of a Health Service Body has been terminated on grounds that his/her appointment is not in the interest of the health service, for non-
- f) attendance at meetings or for non-disclosure of a relevant and material interest;
- g) is a member of a Local Authority Health Overview and Scrutiny Committee;
- h) is a member of a Health and Wellbeing Board;
- i) is a member of Health Watch (nationally or locally);
- j) is the subject of a Sex Offenders' Order and/or his/her name is included in the Sex Offenders' Register;
- k) is a person who is included in any barred list established under the Safeguarding Vulnerable Groups Act 2006;
- l) is a Close Family Member of a Governor or Director of the Trust;
- m) he has failed to repay (without good cause) monies properly owed to the Trust;
- n) has been the subject of action under the Trust's policy for dealing with patients or relatives who are violent and abusive or that of another NHS body; or

a person who is the subject of a disqualification order made under the Company Directors' Disqualification Act 1986.

*Extracts from the Trust Constitution, November 2013*