

Council of Governors

6 December 2023

Report Title:	Trust Constitution Review
Executive/NED Lead:	George Chalkias, Director of Governance
Report author(s):	Ann Filby, Trust Secretary

Approval
 Discussion
 Information
 Assurance

Executive summary

As a Foundation Trust, ESNEFT is required to maintain a Trust Constitution that meets the requirements set out in Schedule 7 of the National Health Service Act 2006 (as amended). The Constitution must contain detailed information about how the Trust operates, the membership area, membership constituencies, composition of the Board and the Council of Governors, and details regarding the rules which apply to governor elections.

The Trust Constitution dated August 2020 has been reviewed, and as part of the review process, consideration has been given to how the membership constituencies could be updated to improve representation and engagement amongst our key stakeholders.

Meetings have taken place with staff governors and public governors to discuss the options and ensure that their views were considered in presentation of the final proposals. A full version of the Trust Constitution is presented, with all amendments tracked. This requires more than half of the members of the Council and more than half of the members of the Board of Directors to approve the amendments. The major amendments are set out in the table overleaf, with the page, paragraph references and rationale included:

- **Staff Constituency:** Colchester and Ipswich sub classes to be replaced by a single ESNEFT Constituency, increasing the number of governors from five to six.

There was positive discussion with staff governors about re-setting expectations of the time commitment, working together to ensure representation at meetings, ensuring clarity of role as part of planning for the 2024 Council elections, utilising drop-in sessions and revising staff governor posters. This will include support being requested from line managers for this important role and the Secretariat setting up quarterly virtual meetings for staff governors to discuss issues to enable these to be raised as appropriate.

- **Patient/Service User and Carer Constituency:** A proposal for a new constituency has been considered. Further review is required to include the criteria for such a constituency and the benefit to be gained, recognising that the role of a patient in supporting change for specific services is quite different to the statutory role of a governor. This will be re-considered as part of a future review.
- **Appointed governors:** A reduction from two to one Healthwatch nominations and removal of Suffolk Healthwatch. Endorsing the principle of expanding the constituency on the basis of reaching out to a wider range of organisations, this would include the addition of one governor representing the Integrated Care System Voluntary Community, Faith and Social Enterprise (VCFSE) Assembly Addition (130 organisations) and one governor to represent the Ipswich and Suffolk Council for Racial Equality (ISCRE), increasing the number of governors from nine to 10. ISCRE is a member of the Assembly.
- **Lead Governor:** Term of office amended from 12 months to three years or the remainder of a three year term of office, with a limit of six years to align with the Chair and Non-Executive Directors' terms of office.

Action Required of the Council

The Council of Governors is invited to approve the revised Trust Constitution for presentation to the Board of Directors for approval.

The detail of the major changes made is as follows:

Page number	Paragraph number	Amendment and rationale
		Monitor/NHSE/I has been substituted by NHS England throughout in accordance with the 2022 Act amendments.
		No changes are required regarding filing vacancies on the Council of Governors. This is set out at page 11, paragraph 13, enabling a vacancy to be filled by unsuccessful candidates from the most recent election within the relevant constituency or class.
9	8.4-8.7	Staff Constituency: removal of all references to two classes (optional text within the Model Core Constitution 2013) within the Staff Constituency.
28	Annex 3	It is proposed that the two classes for Ipswich and Colchester are replaced by a single ESNEFT staff constituency, with a minimum membership of 100, and an increase in representation from six to seven governors to reflect incorporation of community services in North East Essex.
11	12.1	Change in election method from first past the post to single transferable vote (STV). The Trust is an outlier in operating the First Past the Post election method. In seeking more effective representation, the STV enables voters to rank candidates within a constituency. A quota is agreed by the election provider, based on the size of electorate and the number candidates. Once the quota is met, preferences move to the next favoured candidate. If no-one reaches the quota, then the people counting the vote remove the least popular candidate. People who voted for them have their votes moved to their second favourite candidate. This process continues until every vacancy is filled. This means that all votes count. Implementation of STV can lead to more diverse elections, with an illustration comparing the two systems set out overleaf.
14	19	Council of Governors – referral to the Panel. Whilst this panel is not currently in place, the reference remains in the new Health and Social Care Act 2022, so text has been retained
28	Annex 3	Expanding the stakeholder constituency to reach out to a wider range of organisations, and formalise the current arrangements with regard to Healthwatch representation. Appointed Governors increased from nine to 10 Removal of Suffolk Healthwatch Addition of one governor representing the Integrated Care System Voluntary Community, Faith and Social Enterprise (VCFSE) Assembly The Assembly builds on and connects with current VCFSE networks across Suffolk [such as Suffolk Health and Wellbeing Network, VASP, VSL and North East Essex [One Colchester and Tendring Together], and other appropriate networks as identified, through appropriate membership and links with existing relevant meetings. Other key design principles for the ICS VCSEF Assembly include <ul style="list-style-type: none"> • equality and equity of VCFSE sector voice, • inclusion across diversity of VCFSE sector • build on and incorporate existing networks where appropriate • avoid duplication, and streamline where possible ICS VCSEF Assembly - Suffolk & North East Essex Integrated Care System (sneeics.org.uk) Addition of one governor to represent the Ipswich & Suffolk Council for Racial Equality (ISCRE)
73	3.4	Role of Lead Governor revised to align with Code of Governance for NHS provider trusts 2022

Page number	Paragraph number	Amendment and rationale
73	3.5	<p>Term of Lead Governor amended from 12 months to three years or the remainder of their term of office, with a maximum term of six years, to align to the appointment terms of the Chair and Non-Executive Directors.</p> <p>The Constitution already allows any governor to be elected as Lead Governor so no further amendment is required.</p>

Electoral Reform Society website: features of voting systems

<h2>First Past the Post</h2> <p>First Past the Post (FPTP) is the name for the electoral system used to elect Members of Parliament (MPs) to Westminster.</p> <p style="text-align: center;">Read More →</p>	<h2>Single Transferable Vote</h2> <p>With the Single Transferable Vote (STV), the strength of the parties matches the strength of their support in the country, and representatives - for example, Members of Parliament - have a strong connection to their local area.</p> <p style="text-align: center;">Read More →</p>
<p>WHERE IT'S USED</p> <ul style="list-style-type: none"> • Westminster • United States • India 	<p>WHERE IT'S USED</p> <ul style="list-style-type: none"> • Ireland • Scottish Local Elections • Northern Ireland Assembly • Malta
<p>PROPORTIONALITY ★★☆☆☆☆</p> <p>VOTER CHOICE ★★☆☆☆☆</p> <p>LOCAL REPRESENTATION ★★☆☆☆☆</p>	<p>PROPORTIONALITY ★★★★★☆</p> <p>VOTER CHOICE ★★★★★★</p> <p>LOCAL REPRESENTATION ★★★★★★</p>