

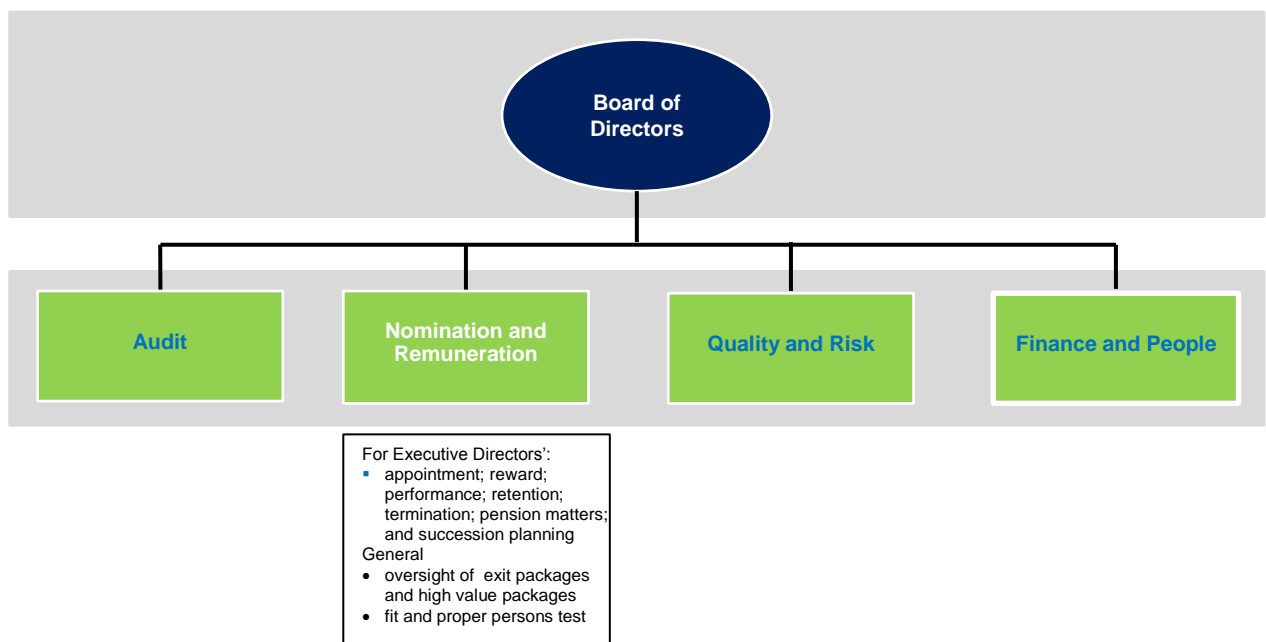
Meeting:	Brighton and Sussex University Hospitals NHS Trust Board of Directors
Date:	25th January 2016
Board Sponsor:	Chairman
Paper Author:	Director of Corporate Affairs
Subject:	Nomination and Remuneration Committee Terms of Reference

<p>Executive summary</p> <p>A proposed change to the terms of reference (6.5) of the Nomination and Remuneration Committee is submitted to the Board for approval.</p> <p>This is designed to ensure oversight by the Committee in respect of off-payroll and interim remuneration.</p>
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Links to corporate objectives	The Committee is a key part of the Trust corporate governance arrangements, providing assurance to the Board regarding executive remuneration and appointments, and other arrangements concerning senior officers of the Trust
Identified risks and risk management actions	None
Resource implications	None
Report history	None
Appendices	Nomination and Remuneration Committee Terms of Reference

<p>Action required by the Board</p> <p>The Board is asked to approve the revised terms of reference for the Nomination and Remuneration Committee</p>
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Chapter 5 Nomination & Remuneration Committee



5. Summary purpose and authority

- 5.1 The Nomination and Remuneration Committee's role is to appoint and, if necessary, dismiss the executive directors; establish and monitor the level and structure of total reward for executive directors; provide oversight of exit agreements and packages, ensuring transparency, fairness and consistency; and provide oversight of the fitness of Directors. The Committee shall receive reports from the Chairman of the Board of Directors on the annual appraisal of the Chief Executive, and from the Chief Executive on the annual appraisals of executive directors, as part of determining their remuneration.
- 5.2 Levels of remuneration shall be sufficient to attract, retain and motivate executive directors of the quality and with the skills and experience required to lead the Trust successfully, but no more than is necessary for this purpose.
- 5.3 There shall be a formal and transparent procedure for developing policy on executive remuneration and for setting the remuneration packages of individual directors. No executive director shall be involved in deciding his own remuneration.
- 5.4 The Committee shall develop and implement an effective succession plan to identify and develop internal personnel to fill key senior management posts as part of ensuring the availability of experienced and skilled employees when posts become available. For executive directors other than the Chief Executive, the Committee shall take advice from the Chief Executive.
- 5.5 The terms of reference reflect the statutory requirements that apply to NHS Trusts. On authorisation as an NHS foundation trust, the Trust shall establish separate Nomination and Remuneration Committees, the terms of reference for which shall be prepared in advance of authorisation.

Nomination and Remuneration Committee: Terms of Reference

1. Background

- 1.1 The Nomination and Remuneration Committee (“the Committee”) is a standing Committee of the Board of Directors. The overall purpose of the Committee is to appoint and, if necessary, dismiss the executive directors; to agree and review the Trust’s policies on reward, performance, retention and pension matters for the executive directors of the Trust; to oversee exit payments and agreements and provide oversight of the fitness of Directors. .
- 1.2 These terms of reference can only be amended by the Board of Directors. They shall be reviewed on at least an annual basis and shall apply for as long as the Trust is an NHS Trust.
- 1.3 On authorisation as an NHS foundation trust, the Trust shall establish separate Nomination and Remuneration Committees which shall comply with the requirements of the National Health Service Act 2006 and Monitor’s publication: The NHS Foundation Trust Code of Governance and the best practice arrangements set out in its publication: Your Statutory Duties: A Reference Guide for NHS Foundation Trust Governors.

2. Authority

- 2.1 The Board of Directors has delegated to the Committee the authority to deal with the matters set out in paragraph 6 below.
- 2.2 The Committee is authorised by the Board of Directors to seek any information it requires from any employee of the Trust in order to perform its duties.
- 2.3 In connection with its duties, the Committee is authorised by the Board of Directors, at the Trust’s expense:
 - (i) to obtain any outside legal or other professional advice; and/or
 - (ii) within any budgetary restraints imposed by the Board of Directors, to appoint remuneration consultants, and to commission or purchase any relevant reports, surveys or information which it deems necessary to help fulfil its duties.

3. Membership and Attendance

- 3.1 The members of the Committee shall be the Chairman of the Board of Directors, independent non-executive directors and the Chief Executive.
- 3.2 The Chairman of the Committee shall be the Chairman of the Board of Directors.
- 3.3 The Operational Director of Human Resources shall assist the Committee and
- 3.4 The Director of Corporate Affairs shall act as Secretary to the Committee.

4. Quorum

- 4.1 The quorum necessary for the transaction of business shall be five.

- 4.2 A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.
- 4.3 In the absence of the Committee Chairman and/or an appointed Deputy, the remaining non-executive members present shall elect one of themselves to chair the meeting.
- 4.4 Where a Committee meeting:
- (i) is not quorate under paragraph 4.1 within one half hour from the time appointed for the meeting;
 - (ii) or becomes inquorate during the course of the meeting,
 - (iii) the Committee members present may determine to adjourn the meeting to such time, place and date as may be determined by the members present.

5. Meetings

- 5.1 The Committee shall meet at least three times a year and at such other times as the Chairman of the Committee shall require.
- 5.2 Meetings of the Committee shall be summoned by the Secretary of the Committee at the request of the Chairman and/or Chief Executive.
- 5.3 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Committee no later than five days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees, as appropriate, at the same time.
- 5.4 Minutes of the Committee shall be circulated to all members and to all members of the Board of Directors save where the minutes concern decisions relating to individual executive directors.

6. Duties

- 1.1 The Committee shall:
- (i) Appoint and, if necessary, dismiss the Chief Executive of the Trust;
 - (ii) Determine the total individual remuneration package for the Chief Executive, including bonuses (if any), pension rights and compensation payments. In doing so, the Committee shall follow the principles set out in 6.4 (v) to (ix) below with respect to executive directors other than the Chief Executive and 6.6 below;
 - (iii) Appoint, and, if necessary, dismiss the executive directors, taking into account the advice of the Chief Executive. The Committee shall not make an appointment to an executive director position which the Chief Executive does not support, rather a further recruitment process shall commence for the role in question;
 - (iv) Ensure Executive and Non-Executive Directors are 'fit and proper persons' as defined in regulations, through the appointment and appraisal processes;

- (v) In consultation with the Chairman of the Board of Directors and the Chief Executive, determine the total individual remuneration package of each executive director other than the Chief Executive, including bonuses (if any), pension rights and any compensation payments. In doing so, the Committee shall:
- (vi) Ensure that the levels of remuneration are sufficient to attract, retain and motivate executive directors of the quality required to run the Trust successfully. They shall, however, avoid paying more than is necessary for this purpose;
- (vii) Judge where to position the Trust relative to other NHS Trusts, NHS foundation trusts and comparable organisations. Such comparisons, however, shall be used with caution in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance;
- (viii) Be sensitive to pay and employment conditions elsewhere in the Trust, especially when determining annual salary increases;
- (ix) Ensure that neither the Chief Executive nor any other executive director is involved in deciding his or her own employment arrangements, including their remuneration; and
- (x) Ensure that where executive directors or senior management are involved in advising or supporting the Committee, care is taken to recognise and avoid conflicts of interest;

6.2 In consultation with the Chief Executive, agree and monitor the level and structure of remuneration for senior management, the definition of which shall be determined by the Committee but shall normally include the first layer of management below Board of Director level;

6.3 Decide if a proportion of each executive director's remuneration shall be structured so as to link reward to corporate and individual performance.

If the Committee decides that there should be such a link, then any performance-related elements of the remuneration of executive directors shall be designed to align their interests with those of patients, patients and taxpayers and to give these executive directors keen incentives to perform at the highest levels.

In designing any schemes of performance-related remuneration, the Committee shall:

- (i) consider whether the executive directors should be eligible for annual bonuses. If so, performance conditions shall be relevant, stretching and designed to match the long-term interests of the public. Upper limits shall be set and disclosed;
- (ii) ensure that pay-outs or grants under any incentive schemes are subject to challenging performance criteria reflecting the objectives of the Trust. Consideration shall be given to criteria which reflect the performance of the Trust relative to a group of comparator trusts in some key indicators;
- (iii) take into account that, in general, only basic salary should be pensionable; and

- (iv) consider the pension consequences and associated costs to the Trust of basic salary increases and any other changes in pensionable remuneration;

6.4 Ensure that contractual terms on termination and any payments made:

- (i) are lawful, consistent with the requirements of the Public Interest Disclosure Act (PIDA), contain no inappropriate restrictions and are otherwise within the powers of the Trust, and, prior to any settlement being agreed, have been considered and approved by the Trust Development Authority, Department of Health and HM Treasury if required.
- (ii) the Committee will approve severance payments for all senior staff, and payments for junior staff in excess of £50k, prior to TDA approval; approve payments for junior staff for payments between £25k and £49k (where TDA approval is not required); note the Chair's approval of payments for junior staff for payments between £10k and £24k (where TDA approval is not required); and note the Operational Director of Human Resources and Chief Financial Officer's approval of payments for junior staff for payments between £1k and £9k (where TDA approval is not required)
- (iii) represent value for money within the meaning set out in HM Treasury and Department of Health guidance;
- (iv) are fair to the individual;
- (v) do not reward failure; and
- (vi) fully recognise the duty to mitigate loss;

6.5 Ensure any off-payroll engagements are consistent with Her Majesty's Treasury guidance; approve any off-payroll engagements prior to appointment; and ensure interim engagements represent value for money.

6.6 Agree the policy for authorising claims for expenses from the Chairman of the Board of Directors and executive directors;

6.7 Ensure that all provisions regarding disclosure of remuneration, including pensions, are fulfilled;

6.8 Be exclusively responsible for establishing the selection criteria, selecting, appointing and setting the terms of reference for any independent remuneration consultants who advise the Committee. Where remuneration consultants are appointed, a statement shall be made available of whether they have any other connection with the Trust; and

6.9 Obtain reliable, up-to-date information about remuneration in other Trusts and comparable organisations.

7. Reporting responsibilities

7.1 The Committee Chairman shall report formally to the Board of Directors on its proceedings after each meeting on all matters within its duties and responsibilities.

7.2 The Committee shall produce an annual report of the Trust's remuneration policy and practices which shall form part of the Trust's annual report.