

Board of Directors
Executive Appointments and Remuneration
Committee
Terms of Reference
(v3.0/02 - 2017)

Reference to “the Committee” shall mean the Executive Appointments and Remuneration Committee.
Reference to “the Board” shall mean the Board of Directors unless otherwise specified.
Reference to “the Trust” shall mean the University Hospital Birmingham NHS Foundation Trust.

1. Constitution

The Board hereby resolves to establish a Committee of the Board to be known as the Executive Appointments and Remuneration Committee. The Committee has the executive powers delegated in these Terms of Reference.

2. Role

2.1. The role of the Committee is to:

- 2.1.1. review the balance and effectiveness of the Board of Directors, identifying the competencies needed, any skills needs and those individuals who might best provide them;
- 2.1.2. appoint (subject to paragraph 3.1 below and the approval of the Council of Governors) or remove the Chief Executive of the Trust;
- 2.1.3. appoint or remove the Executive Directors of the Trust and any Board attending directors;
- 2.1.4. receive a report from the Chief Executive regarding the appraisal of the Executive Directors of the Trust and any Board attending directors;
- 2.1.5. decide, and monitor the application of, the remuneration policy for all Executive Directors, Board attending directors and senior management posts;
- 2.1.6. review and approve the Remuneration Report included within the Trust’s Annual Report and Accounts; and
- 2.1.7. receive a report from the Local Awards Committee regarding the procedure and outcomes of the Trust’s process for considering the making of recommendations for awards under the Clinical Excellence Awards Scheme to the Advisory Committee on Clinical Excellence Awards (ACCEA).

- 2.2. The term “senior management posts” refers to the level of management immediately below the Board of Directors.
- 2.3. Monitor introduced its Code of Governance for Foundation Trusts in 2006 which was revised in 2010 and 2013. These Terms of Reference are based, in part, on best practice as set out in that Code and have been drafted referring to the provisions in the Code. The Code states as two of its principles that:
 - 2.3.1. "There should be a formal, rigorous and transparent procedure for the appointment or election of new members to the boards of directors."; and
 - 2.3.2. “There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual directors. No director should be involved in deciding his or her own remuneration.”
- 2.4. These Terms of Reference are intended to ensure that the Trust's procedures for the appointment of the Chief Executive and other Directors (excluding Non-Executive Directors) to the Board of Directors (and elsewhere) reflect these principles. It is considered essential that the Committee be properly constituted with a clear remit and identified authority.
- 2.5. As appointment to the Board of Directors are public appointments, these Terms of Reference also take account of the relevant Reports of the Committee on Standards in Public Life (in particular the 'Nolan' Principles)) and guidance from the Commissioner for Public Appointments. Like others who serve the public, members of the Committee and its sub-committees should follow the 'Nolan' Principles which are shown at Annex 3.
- 2.6. Statutory requirements as enacted by the Health and Social Care (Community Health and Standards) Act 2003 and 2012 (the Acts) are incorporated in these Terms of Reference and any necessary interpretations are based on Monitor's Code of Governance.

3. Membership

- 3.1. The Committee shall comprise the Trust Chair and the Non-Executive Directors of the Trust. For appointments/remuneration other than that of the Chief Executive, the Chief Executive shall be a member.
- 3.2. The Committee Chair shall be the Chair of the Board of Directors and the Council of Governors. In the absence of the Committee Chair and/or an appointed deputy, the remaining members present shall elect one of their number to chair the meeting.
- 3.3. The Foundation Secretary, or his/her nominee, shall be Secretary to the Committee and shall attend to provide appropriate support to the Chair and committee members.
- 3.4. Care should be taken to minimise the risk of any conflict of interest that might be seen to give rise to an unacceptable influence.
- 3.5. No member shall take part in any discussion relating to his/her post and must declare at the beginning of any meeting any such interest in any items for that meeting.

3.6. Other individuals may be called upon to speak by prior arrangement with the Chair of the Committee.

4. Frequency

Meetings shall be held not less than two times a year and at such other times as the Chair of the Committee shall require.

5. Quorum

The Committee shall be deemed quorate if there is representation of a minimum of three Non-Executive Directors (the Chair may be counted as a Non-Executive Director for quorum purposes). 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 duties vested in or exercised by the Committee.

6. Authority

6.1. The Committee is invested with the delegated authority to act on behalf of the Board of Directors. The limit of such delegated authority is restricted to the areas outlined in the Duties of the Committee contained within these Terms of Reference and subject to the rules on Reporting, as defined below. The Committee is authorised to investigate any activity within its Terms of Reference, and to seek any information it requires from staff, who are requested to co-operate with the Committee in the conduct of its inquiries.

6.2. The Committee is authorised by the Board of Directors to obtain independent legal and professional advice and to secure the attendance of external personnel with relevant experience and expertise, should it consider this necessary. All such advice is to be arranged in consultation with the Foundation Secretary.

7. Duties

Appointments

7.1. The Committee shall:

7.1.1. oversee the recruitment and selection process, including the preparation of a description of the role and capabilities required and an appropriate remuneration package, for the appointment of the Chief Executive post on the Board, appoint the Chief Executive (subject to approval by the Council of Governors) and make recommendations to the Council of Governors for its approval of the appointment;

7.1.2. oversee the recruitment and selection process, including the preparation of a description of the role and capabilities required and appropriate remuneration packages, for the appointment of Executive Directors, any Board attending directors and the Foundation Secretary; identify and appoint all Executive Directors and any Board attending director and determine their remuneration, terms and conditions of service;

7.1.3. in appointments to the Board of Directors, the Committee shall ensure that there is an element of external assessment in the selection process;

- 7.1.4. paying due regard to the Constitution of the Trust, regularly review the structure, size and composition of the Board and make recommendations to the Board and the Council of Governors in relation to appointments of Non-Executive Directors with regard to any adjustments that are deemed necessary (noting that the Board must include a majority of Non-Executive Directors excluding the Chair; that the Executive Director posts of Chief Executive and Finance Director are mandatory under the Acts; and that one Executive Director must be a registered medical practitioner and another a registered nurse or a registered midwife);
 - 7.1.5. ensure that all Directors meet the 'fit and proper' persons tests of the general conditions of Monitor's Provider Licence;
 - 7.1.6. satisfy itself with regard to succession planning, that the processes and plans are in place with regard to both Board and senior appointments.
- 7.2. The Committee shall appoint a Nominations Sub-Committee at such time, and as soon as they are aware of, the Chief Executive or other Executive Directors or Board attending directors (excluding Non-Executive Directors) falling vacant for whatever reason. The Terms of Reference for this sub-committee are contained in Annex 2.

Remuneration

- 7.3. The Committee shall:
- 7.3.1. Determine the framework or broad policy for the remuneration of the Chief Executive and such other members of the executive management as it is designated to consider. (The remuneration of the Chair and Non-Executive directors shall be a matter for the Council of Governors' NED Remuneration Committee). No director or manager shall be involved in any decisions as to his or her own remuneration;
 - 7.3.2. In determining such policy, take into account all factors which it deems necessary including the provisions of any national guidance for such staff. The objective of such policy shall be to ensure that members of the executive management and consultant staff of the Trust are provided with appropriate incentives to encourage enhanced performance and are, in a fair and responsible manner having proper regard for the Trust's circumstances and performance, rewarded for their individual contributions to such performance. It shall also ensure that the remuneration of newly appointed executives is within the Trust's overall policy;
 - 7.3.3. Determine targets for any performance related pay schemes operated by the Trust and asking the Board, when appropriate, for approval for any long term incentive arrangements;
 - 7.3.4. Advise on, oversee and approve appropriate contractual arrangements for such staff, including the proper calculation and scrutiny of early termination payments, taking account of such national guidance or best practice as is appropriate and

considering any necessary claw-back provisions for the event that the respective member of staff returns to the NHS within the period of a putative notice;

- 7.3.5. Within the terms of the agreed policy, determine the total individual remuneration package of each Executive Director including, where appropriate, corporate and individual bonuses and cost of living uplifts;
 - 7.3.6. Determine the policy for and scope of service agreements for the Executive Directors, termination payments and compensation commitments;
 - 7.3.7. Review remuneration levels in comparable organisations to help ensure recruitment and retention but ensure that any identified increases are not automatically implemented, thereby avoiding a “ratchet” effect;
 - 7.3.8. Be aware of and oversee any major changes in employee benefit structures throughout the Trust, especially determining the level of the annual cost of living uplift for senior managers and Directors;
 - 7.3.9. Appoint a Local Awards Committee for the Clinical Excellence Awards Scheme to make determinations on these awards, to report them to the Committee and to produce an annual report to the Advisory Committee on Clinical Excellence Awards (ACCEA) on process and outcomes. Its detailed Terms of Reference, based on ACCEA Guidance, are detailed in Annex 1.
- 7.4. The Committee shall also make recommendations to the Board detailing items that should be published in the Trust's Annual Report relating to its activities.
- 7.5. Other employment issues arise from time to time and the Committee provides a forum in which such matters arising at senior staffing levels might be addressed and/or resolved. These include, amongst others, contracts of employment and the recruitment and selection process for executive Board members and certain other Directors.

8. Agendas and Reporting

- 8.1. Meetings of the Committee shall be summoned by the Foundation Secretary at the request of the Chair of the Committee.
- 8.2. Agendas and briefing papers should be prepared and circulated in sufficient time for Committee Members to give them due consideration. A full set of agenda papers will be sent to the Chair of the Trust and the Chief Executive.
- 8.3. Minutes of Committee meetings should be formally recorded and distributed to Committee Members within 10 working days of the meetings. Subject to the approval of the Chair, the Minutes will be submitted to the Board of Directors at its next meeting and may be presented by the Committee Chair.
- 8.4. An annual report from the Committee to the Board of Directors should be produced to demonstrate the Committee's discharge of its duties.
- 8.5. The Committee should also report to the Board of Directors as

appropriate, to inform the Board of any issues that require resolution by the Board.

- 8.6. The Chair of the Committee shall attend the Annual General Meeting of the Board prepared to respond to any member's questions on the Committee's activities.

9. Other Matters

- 9.1. The Committee shall be supported administratively by the Foundation Secretary, or his/her nominee, whose duties in this respect will include:

9.1.1. Agreement of agenda with Chair and attendees and collation of papers;

9.1.2. Arranging for the taking the minutes & keeping a record of matters arising and issues to be carried forward;

9.1.3. Advising the Committee on pertinent areas; and

9.1.4. Arranging for the Committee to receive independent legal and professional advice, if required.

10. Conduct of Business

The conduct of business will conform to guidance set out in the board of Directors' Standing Orders, unless alternative arrangements are defined in these Terms of Reference.

University Hospitals Birmingham

NHS Foundation Trust

Local Awards Committee for Clinical Excellence Awards

Terms Of Reference
(v2.20/02 2010)

1. Role and responsibilities

The Clinical Excellence Awards Scheme comprises 12 levels of award. The Executive Appointments and Remuneration Committee (“EARC”) appoints a Local Awards Committee (“LAC”) to determine on nominations for the first eight levels of award (Levels 1 to 8) and for Level 9 awards where the award is for local achievement.

Level 9 awards, where national achievement is highlighted, and awards at Levels 10 to 12 are the responsibility of the national Advisory Committee on Clinical Excellence Awards (ACCEA) and its (Regional) Sub-Committees.

The LAC will assess consultant nominations against the strict criteria set out in the Guide to the scheme and will evolve scoring systems to take account of those criteria.

They will ensure that their decisions are properly documented and that their recommendations are transparent, fair, and based on clear evidence. In reaching its decisions the LAC will have due regard to the principles set out by the Committee on Standards in Public Life (the ‘Nolan’ Principles).

2. Declaration of Interests

LAC members should declare any personal or business interests that may conflict with their responsibilities as members of the LAC.

Any member who has a direct interest in any item under discussion, e.g. a personal or business interest involving an individual nominated for an award, should declare an interest. It is then for the Chair of the LAC to decide whether the member should continue to take an active part in any discussions.

In line with the Nolan Principles, members are required to notify the Trust secretariat of any changes in their interests as they occur.

3. Process

Local awards (Levels 1 to 9) will be payable to those consultants making an outstanding contribution at a local level against nationally set criteria. The criteria for local awards will share a common rationale and objectives with the higher awards. Level 9 may be awarded or otherwise by the LAC, or the ACCEA depending on the type of achievement being recognised.

The LAC will approve awards that are given to recognise and reward contributions to the NHS which are over and above that normally expected of consultants in their delivery of their job plans and contractual duties and:

- Demonstrate sustained commitment to patient care and wellbeing or improving public health;
- Sustain high standards in the technical and clinical aspects of service whilst providing patient-centred care;
- In their day-to-day practice, demonstrate a clear commitment to the values and goals of the NHS by participating actively in annual job planning and observing the private practice Code of Conduct such that they:
 - show a commitment to achieving agreed service objectives;
 - through active participation in clinical governance, contribute to continuous improvement in service organisation and delivery;
 - embrace the principles of evidence-based practice;
 - contribute to the knowledge base through research;
 - are recognised as exceptional teachers and/or trainers and/or managers;
 - contribute to policy making and planning in health care.

The annual level of investment in new awards at local level will be at least the same as would have occurred under the previous system of discretionary points. The number of new awards available each year will necessarily be limited and awards will be decided by the LAC on a competitive basis, based on the relative merits of individual cases.

Local awards will be reviewed by the LAC on an exception basis (e.g. where a contract of employment has been significantly altered). Awards will also be reviewed at other times where disciplinary or professional proceedings have upheld concerns or allegations about the consultant's conduct or performance.

4. Appeal Process

Any consultant nominated for an award may seek a review of the process within which their nomination has been considered. Any appeal against the process will be considered by the EARC.

5. Eligibility for Awards and Nomination Process

- Consultants in the Trust who have at least one year's experience at consultant level
- Clinical Academics (based on the contributions made to the NHS)

- Honorary contract holders (based on the contributions made to the NHS)
- Consultants working as clinical and medical directors of the Trust

All candidates for the awards process must have undertaken the Trust's appraisal scheme for consultant staff.

Candidates may nominate themselves or they may be nominated by one of a number of recognised third parties. Either approach will require the candidate to submit a fully completed standard application form (ACCEA Form 1, the curriculum vitae questionnaire). A supporting citation is required from the Chief Executive.

6. Draft Annual Report to ACCEA for Remuneration Committee Approval

The LAC will produce an annual report for the Remuneration Committee containing its determinations for awards and a description of how it arrived at its conclusions. This report will include, for those Consultants recommended for an award, a summary of their appraisal, any outstanding complaints and level of complaints received over the previous twelve months, and their comparative activity levels (as set out in Minute 04/014 of the Remuneration and Review Committee (now the EARC) on the 17 06 2004)..

The annual report will list the members of the LAC and how they were selected to comply with the guidelines on membership. The annual report will be used to demonstrate that the process was completed fairly and in accordance with guidelines issued by ACCEA.

The EARC will seek assurance through this annual report that mechanisms are in place to advise and support consultants who, having applied for an award, are not advancing in the system.

The report should include:

- the overall number of consultants eligible for consideration (i.e. those in post for at least 12 months) and the percentage of:
 - consultants in academic posts
 - women consultants
 - ethnic minority consultants
- the overall number of award holders and the percentage of:
 - consultants in academic posts
 - women consultants
 - ethnic minority consultants
- the names of people allocated an award in 2004 together with the principal reason for why the award was granted.
- a compliance statement signed by the chairman of the LAC regarding the process and mechanisms for advising and supporting consultants.

7. Membership

The LAC will be chaired by the Chief Executive or a nominated deputy.

The Trust Chair shall be a member (ex officio) and the EARC shall nominate one non-executive director to be a member.

There will be two lay representatives; representation from South Birmingham PCT; the Divisional Directors; up to nine consultants (reflecting an appropriate range of specialties and gender and ethnic minority balances) and there will be university representation.

Members of the national ACCEA and its sub-committees will be eligible to attend meetings of the LAC.

Members will be expected to have received training in valuing diversity.

Current membership of the LAC (2004/05) is as follows:

Chief Executive (Chair)
Chair
Non-executive director
Medical Director
University Representative
Chief Operating Officer
Executive Director of Delivery
Lay Members (two)

Divisional Directors
Consultant Representatives

(Administrator)

8. Timetable

The LAC will wish to complete its deliberations by 31 December each year. It will then report its determinations to the next available meeting of the EARC. The annual report will be drafted and agreed for submission to the appropriate ACCEA sub-committee by 31st March following the period when decisions were made.

Board of Directors' Nominations Sub-Committee

Terms Of Reference
(v1.91/01 2007)

1. **Constitution**

The Executive Appointments and Remuneration Committee hereby resolves to establish a sub-Committee to be known as the Nominations Sub-Committee. The sub-Committee has no executive powers.

2. **Role**

The role of the Sub-Committee is to identify and nominate for the approval of the Executive Appointments and Remuneration Committee, candidates to fill Executive Director and board attending director vacancies as and when they arise.

3. **Duties**

The Sub-Committee shall:

- 3.1. In the case of Executive Directors and board attending directors, agree a description of the role and capabilities required for a particular appointment; and
- 3.2. agree and carry out the recruitment and selection process, including the interviewing of prospective candidates, and make recommendations to the Executive Appointments and Remuneration Committee or the Chief Executive as appropriate, for their approval.

4. **Membership**

- 4.1. The Sub-Committee shall be appointed by the Executive Appointments and Remuneration Committee from amongst its members and shall comprise a Chair (see 4.2 below) and at least two other members, one of whom, save when the post being considered by the sub-Committee is that of the Chief Executive, shall be the Chief Executive or their nominee.
- 4.2. The Sub-Committee Chair shall be appointed by the Executive Appointments and Remuneration Committee from amongst its members. In the absence of the sub-Committee Chair and/or an appointed deputy, the remaining members present shall elect one

of their number to chair the meeting.

- 4.3. The Sub-Committee Chair shall be appointed by the Chair of the Trust. In the absence of the Sub-Committee Chair and/or an appointed deputy, the remaining members present shall elect one of their number to chair the meeting.
- 4.4. If a member is unable to act due to absence, illness or any other cause, the Chair of the Sub-Committee may appoint another non-executive director/officer of the Trust to serve as an alternate member.
- 4.5. Care should be taken to minimise the risk of any conflict of interest that might be seen to give rise to an unacceptable influence.
- 4.6. No member shall take part in any discussion relating to his/her post and must declare at the beginning of any meeting any such interest in any items for that meeting.

5. External Advisor

For appointments of Executive Directors, the Sub-Committee shall ensure that there is an element of external assessment in the selection process – this may include the engagement of an external advisor to attend interviews and advise the sub-committee accordingly.

6. Quorum

The Sub-Committee shall be deemed quorate if there is representation of a minimum of two members, one of which is a Non-Executive Director. A duly convened meeting of the Sub-Committee at which a quorum is present shall be competent to carry out all or any of the duties vested in the sub-Committee.

7. Attendance

The Sub-Committee may invite other members of the Board of Directors, members of the Council of Governors and trust staff to attend its meetings where appropriate.

8. Secretary

The Foundation Secretary or their nominee shall act as the Secretary of the sub-Committee.

9. Frequency and Notice of Meetings

- 9.1. Meetings shall be held on an as required basis. A meeting may be called by the Chair of the Sub-Committee or by the Foundation Secretary at the request of a member of the Committee.
- 9.2. Agendas and briefing papers should be prepared and circulated in sufficient time for Sub-Committee members to give them due consideration.

10. Minutes and Reporting

Minutes of Sub-Committee meetings should be formally recorded and distributed to Sub-Committee Members within 10 working days of the meetings. Subject to the approval of the Chair, the Minutes will be submitted to the Executive Appointments and Remuneration Committee at its next meeting and may be presented by the Sub-Committee Chair.

11. Conduct of Business

The conduct of business will conform to guidance set out in the Board of Directors' Standing Orders, unless alternative arrangements are defined in these Terms of Reference.

12. Review

The terms of reference of the committee shall be reviewed by the Executive Appointments and Remuneration Committee at least every three years.

The Seven Principles Of Public Life (as revised in 2013)

(The Committee on Standards in Public Life)

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must resolve any conflict of interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support these principles and be willing to challenge wherever it occurs.