



<b>MEETING TITLE</b> Trust Board		<b>MEETING DATE</b> 27/09/2016	
<b>TITLE of PAPER</b>	<b>For Approval: Updated Terms of Reference for the Role of Senior Independent Director</b>	<b>PAPER REF</b>	5.1
<b>STRATEGIC OBJECTIVE</b>	All		
<b>PURPOSE OF THE PAPER</b>	That the Trust Board approves the updated Terms of Reference for the role of Senior Independent Director.		
<b>For Approval</b>	<input checked="" type="checkbox"/>	<b>For Assurance</b>	<input type="checkbox"/>
<b>For Decision</b>	<input type="checkbox"/>	<b>Discussion/Information</b>	<input type="checkbox"/>
<b>AUTHOR / LEAD</b>	Anne Allen, Trust Secretary	<b>ACCOUNTABLE DIRECTOR</b>	Rod Barnes, Chief Executive
<b>DISCUSSED AT / INFORMED BY – include date(s) as appropriate (free text – i.e. please provide an audit trail of the development(s)/proposal(s) subject of this paper):</b> The current Terms of Reference (TOR) for the role of Senior Independent Director were approved by the Trust Board in 2012. The draft revised TOR have been drafted based on a review of best practice and feedback provided by Board members.			
<b>PREVIOUSLY AGREED AT:</b>	<b>Committee/Group:</b> Trust Board	<b>Date:</b> 29 May 2012	
<b>RECOMMENDATION</b>	That the Trust Board approves the updated Terms of Reference for the role of Senior Independent Director.		
<b>RISK ASSESSMENT</b>		<b>Yes</b>	<b>No</b>
<b>Corporate Risk Register and/or Board Assurance Framework amended</b> <i>If 'Yes' – expand in Section 4. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Resource Implications (Financial, Workforce, other - specify)</b> <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Legal implications/Regulatory requirements</b> <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Equality and Diversity Implications</b> <i>If 'Yes' – please attach to the back of this paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>ASSURANCE/COMPLIANCE</b>			
<b>Care Quality Commission</b> <b>Choose a DOMAIN</b>		5: Well led	
<b>Monitor Quality Governance Framework</b> <b>Choose a DOMAIN</b>		3: Planning and driving continuous improvement	

## Updated Terms of Reference for the Role of Senior Independent Director

### 1. PURPOSE

- 1.1 That the Trust Board approves the updated Terms of Reference for the role of Senior Independent Director.

### 2. BACKGROUND

- 2.1 The Higgs Review, 2003 recommended that, “*boards of publicly listed companies should appoint a senior independent director (SID) from among their independent Non-Executive Directors (NEDs).*” The role was enshrined in the *UK Combined Code on Corporate Governance*, on which the *NHS Foundation Trust Code of Governance (Monitor, 2014)* is founded, and with which YAS complies. YAS appointed its SID, Erfana Mahmood, Non-Executive Director, in 2012.
- 2.2 To ensure YAS’ corporate governance arrangements are kept under review to ensure best practice is delivered, the Trust has benchmarked its current SID Terms of Reference (TOR) with a number sources including:
- NHS Foundation Trust Code of Governance, Monitor, 2014;
  - NHS England (sets priorities and challenges for the NHS in England);
  - NHS Improvement (combined the former roles of the NHS Trust Development Authority and Monitor, the independent regulator of NHS Foundation Trusts);
  - other NHS trusts and Foundation Trusts (ambulance and other sectors) including a number of those rated ‘Outstanding’ by the Care Quality Commission, the independent regulator for health and social care;
  - UK Combined Code on Corporate Governance, Financial Reporting Council, April 2016;
  - BUPA;
  - Nuffield Health;
  - the Institute of Directors.

### 3. CONTEXT

- 3.1 The current Terms of Reference (TOR) for the role of Senior Independent Director were approved by the Trust Board in 2012. The draft revised TOR have been based on a review of best practice and feedback provided by Board members.
- 3.2 The SID must be a Non-Executive Director (NED) who is considered by the Board to fulfil the criteria of ‘independence’ (please refer to: **Appendix A:** - A.3.1 & A.3.2).

3.3 The Trust Chairman is not eligible to be the SID nor is the Deputy Chairman when acting as Chairman of the Trust due to the need for the role to be independent. The SID does not have to be the Audit Committee Chairman.

3.4 The SID, in common with all other Non-Executive Directors, has the same general legal responsibilities to the Trust Board as any other Director.

3.5 **YAS' Current Terms of Reference for the Role of Senior Independent Director are to:**

- a) *“Lead a meeting of the Non-Executive Directors, without the Chairman present, at least annually, to appraise the Chairman’s performance (taking into account the views of the Executive Directors).”*
- b) *“Make her/himself available for confidential discussions with other Non-Executive Directors who may have concerns which they believe have not been properly considered by the Board as a whole.”*
- c) *“Act as a point of contact for Members of the public and other stakeholders with concerns which contact through the normal channels has failed to resolve or for which such contact is inappropriate.”*

#### **4. PROPOSALS/NEXT STEPS**

4.1 **That the duties of YAS' Senior Independent Director will be to:**

- i. play a key role in supporting the Chairman in leading the Trust Board and acting as a 'sounding board' and a source of advice for the Chairman;
- ii. be available to Board Members and the Members of YAS Forum, if they have concerns which have not or cannot be resolved through contact with the Chairman, the Chief Executive or the Trust Secretary. This will involve an obligation on the SID to respond to such contacts and to meet privately with members if appropriate and necessary;
- iii. be the focal point for Board Members for any concerns regarding the Chairman's performance or the relationship between the Chairman and Chief Executive;
- iv. coordinate among other Directors annually, feedback on the Chairman's performance to contribute to his/her appraisal;
- v. act as a trusted intermediary for Non-Executive Directors where this is required to help them challenge and contribute effectively;
- vi. take the initiative in discussion with the Chairman or other Board Members if it should seem that the Board is not functioning effectively.

4.2 An outline person specification for the SID role is enclosed at **Appendix B**.

4.3 It is recommended the role's TOR be reviewed at least every two years.

## **5. RECOMMENDATIONS**

5.1 That the Trust Board approves the updated Terms of Reference for the role of Senior Independent Director with periodic review at an interval of not less than every two years.

## 6. BACKGROUND/APPENDICES

### Appendix A: Monitor's NHS FT Code of Governance, 2014: - A.3.1 & A.3.2

*“The board of directors should identify in the annual report each non executive director it considers to be independent. The board should determine whether the director is independent in character and judgment and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director’s judgment. The board of directors should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:*

- *has been an employee of the NHS foundation trust within the last five years;*
- *has, or has had within the last three years, a material business relationship with the NHS foundation trust either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the NHS foundation trust;*
- *has received or receives additional remuneration from the NHS foundation trust apart from a director’s fee, participates in the NHS foundation trust’s performance related pay scheme, or is a member of the NHS foundation trust’s pension scheme;*
- *has close family ties with any of the NHS foundation trust’s advisers, directors or senior employees;*
- *holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;*
- *has served on the board of the NHS foundation trust for more than nine years from the date of their first appointment; or*
- *is an appointed representative of the NHS foundation trust’s university medical or dental school.”*

## APPENDIX B: SID PERSON SPECIFICATION

	Essential	Desirable
Qualifications	A YAS' Non-Executive Director	
Knowledge and Experience	Knowledge and experience of undertaking appraisals and giving feedback	
	Knowledge of governance and compliance	Experience of dispute resolution
Skills	Highly developed communication and negotiation skills	
Personal Qualities	Open and engaging	
	Independent	
	Candid	
Additional Requirements	Willingness to attend other meetings as appropriate.  Has sufficient availability and flexibility of time to fulfil the requirements of the role.	