



MEETING TITLE Trust Board Meeting in Public		MEETING DATE 28 January 2014	
TITLE of PAPER	For Approval: YAS Forum Draft Terms of Reference	PAPER REF	6.1
STRATEGIC OBJECTIVE	All		
PURPOSE OF THE PAPER	To propose draft Terms of Reference for a <i>YAS Forum</i> , an elected Membership body to be formed outside the legislative framework of the NHS Act 2006 as amended by the Health & Social Care Act 2012.		
For Approval	<input checked="" type="checkbox"/>	For Assurance	<input type="checkbox"/>
For Decision	<input type="checkbox"/>	Discussion/Information	<input type="checkbox"/>
AUTHOR / LEAD	Anne Allen, Director of Corporate Affairs & Trust Secretary	ACCOUNTABLE DIRECTOR	Chief Executive
DEBATED AT:	Committee/Group: Foundation Trust Development Group	Date: 23/10/2013 28/12/2013 15/01/2014	
PREVIOUSLY AGREED AT:	Committee/Group: Foundation Trust Development Group	Date: 28/12/2013 (in principle) 15/01/2014 (draft TOR)	
RECOMMENDATION	It is recommended that the Trust Board approve the YAS Forum Terms of Reference.		
RISK ASSESSMENT		Yes	No
Corporate Risk Register and/or Board Assurance Framework amended <i>If 'Yes' – expand in Section 4. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Resource Implications (Financial, Workforce, other - specify) <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Legal implications/Regulatory requirements <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Quality and Diversity Implications <i>If 'Yes' – please attach to the back of this paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
ASSURANCE/COMPLIANCE			
Care Quality Commission Registration Outcome(s)		1: Respecting and involving people who use services 6: Cooperating with other providers	
NHSLA Risk Management Standards for Ambulance Trusts		1: Governance	

YAS Forum Draft Terms of Reference

1. PURPOSE/AIM

- 1.1 To propose draft Terms of Reference for a *YAS Forum* [the Forum], an elected Membership body to be formed outside the legislative framework of the NHS Act 2006 as amended by the Health & Social Care Act 2012 [the Act].

2. BACKGROUND

- 2.1 The YAS Trust Board is committed to furthering Membership engagement and partnership working through the vehicle of a *YAS Forum* which, it is proposed, would be based on the model for Foundation Trust Council of Governors until such time one can be elected. The paper refers to an elected body as the '*YAS Forum*' to avoid confusion with a future Council of Governors.
- 2.2 The Forum would be structured in a similar way to that previously considered by the Trust Board for FT, under The Constitution, with a total of 22 elected members: Public (13), Staff (4) and Appointed (5) representing the wide range of external stakeholders with whom we work in partnership to deliver our services (4.5 refers).
- 2.3 The Forum will be guided in its role primarily by the Chairman supported by the Director of Corporate Affairs & Trust Secretary and the Membership Officer. The Head of Stakeholder Engagement will also have a key role in supporting the Forum's agenda.
- 2.4 When YAS is in a position (under the Act) to prepare for a Council of Governors, a new election process would have to take place. YAS Forum members have no grandparent rights.
- 2.5 As the Forum would be created outside the legislative framework of the Act, it would not have decision making powers therefore there are no implications for YAS' corporate governance framework including indemnity.
- 2.6 The Forum would operate and develop in light of the best practice experience and guidance of other user-led organisations, for example *Inclusion North; North Yorkshire Forum, Disability Rights UK* and the Trust's own Expert Patient who supports these proposals.
- 2.7 Benchmarking of other Trusts and stakeholders in the Region and more widely indicates that such a Forum would be a new initiative for a non - Foundation Trust (FT).

- 2.8 It is believed that membership of a user-led body such as this would both maintain and nurture the interest of YAS' Members having aspirations to be a FT Governor in future (notwithstanding there is no continuity of membership to the Council of Governors - 2.4 refers), and provide its members with relevant and valuable experience.
- 2.9 This paper therefore presents for consideration draft Terms of Reference for an elected 'YAS Forum' to be formed outside the legislative framework of the NHS Act 2006 as amended by the Health & Social Care Act 2012 [the Act].

3. LEGAL / REGULATORY

- 3.1 **NHS Trust Development Authority (North)** and the Trust's FT solicitors have advised there is nothing to preclude the proposed course of action.
- 3.2 **Monitor, the FT Regulator** would, we believe, look favourably upon these arrangements in terms of positive engagement of the Trust's Membership in the development and delivery of YAS' services.
- 3.3 **Elections to YAS Forum:** would be managed by UK Engage, the Trust's nominated election provider, with a similar process to that for a Council of Governors. Once Forum members have been elected and, after a period of training and development, an inaugural meeting of YAS Forum could be held on 8 July 2014 (with quarterly meetings thereafter). The cost of the election process for the current Membership of c 10,000 (Public & Staff) is approximately £7-8k depending on the quality of the election materials selected.

4. PURPOSE AND POWERS

- 4.1 The Forum will require strict definitions around purpose and powers.
- 4.2 Creation of the Forum would appear to promote a duty (under the Act) which YAS Trust Board aspires to:

“duty for the board of directors to promote the success of the NHS foundation trust so as to maximise the benefits for the members of the trust as a whole and for the public.”

4.3 Purpose

The purpose of the Forum could be defined as:

“through dialogue to assist the Trust to shape and develop its service provision in an open, transparent and accountable* manner”.

Hemmati, M. 2002. Multi-Stakeholder Processes for Governance and Sustainability. Beyond Deadlock and Conflict. London: Earthscan.

* the Forum would be accountable to the Membership which elected it.

4.4 Powers

The Forum’s powers are a matter for the Trust Board. These could include some of those in YAS’ Constitution (for the Council of Governors) but **must exclude** those which require a legally constituted body under the Act, that is:

- *be involved in the appointment of the Chairman and Non-Executive Directors and Chairman’s appraisal;*
- *a duty to hold the Non-Executive directors individually and collectively to account for the performance of the Board of Directors;*
- *new voting rights relating to changes to the draft Constitution and significant transactions.*

4.5 **Membership of the Forum:** need not necessarily follow that of a future Council of Governors (in The Constitution) however it would probably make sense to do so. The rationale for any deviation (from The Constitution) may be difficult for stakeholders to understand and potentially be viewed as unrepresentative of the Membership.

The Constitution allows for:

- **13 Public Governors** (representing Public Members)
- **4 Staff Governors** (representing Staff Members)
- **5 Appointed Partner Governors** (e.g. hospital, CCG, Police)

4.6 **Terms of Office:** The Constitution specifies Terms of Office (for the Council of Governors) which vary from 2 to 3 years for any individual with a maximum of 2 terms, i.e. maximum of 6 years.

The Forum may have the same, or different, terms of office. However, it may be preferential to consider all Forum members for a fixed term of office, for example up to 2 years, *or* earlier should an election be completed for the Shadow Council of Governors (under the Act).

5. PROPOSALS/NEXT STEPS

That, following approval of the Terms of Reference for YAS Forum, preparation for the Election process should proceed under the management of the Foundation Trust Development Group.

6. BENEFITS / RISKS

<p>Strengths</p> <ul style="list-style-type: none"> • YAS governance structure becomes a model for Stakeholder inclusion; • Forum Members contribute to YAS' strategic development; • Forum is representative of the Membership who elected them – and the Public; • Opportunity for YAS to develop potential Governors of the future; • May reduce potential for attrition amongst Members particularly those interested in becoming Governors in future; • Election process relatively inexpensive; • Allows YAS learn to operate with such an elected body, e.g. flow and content of information between the organisation and Forum, and vice versa. 	<p>Weaknesses</p> <ul style="list-style-type: none"> • May be a reluctance to engage – “not the real thing”; Forum perceived as having no real powers; • COG elected Members may not be the same (duplication of effort, resources, cost).
<p>Opportunities</p> <ul style="list-style-type: none"> • Members own the Membership Strategy for the benefit of Members and the Public. 	<p>Threats</p> <ul style="list-style-type: none"> • Competition for Governors from FTs; • Inefficient use of YAS resources i.e. train and develop YAS Forum members who then are poached by FTs to become Governors.

7. RECOMMENDATIONS

It is recommended that the Trust Board approve the YAS Forum Terms of Reference.

8. APPENDICES/BACKGROUND INFORMATION

Appendix A: Draft Terms of Reference: YAS Forum