

Board of Directors (Public)

Item 6.1

board report

Subject: Proposed Amendment to LHCH Constitution – New Election Rules

Date of meeting: Tuesday 31st March 2015

Prepared by: Gill Donnelly, Membership and Communications Officer

Presented by: Lucy Lavan, Associate Director of Corporate Affairs

Data Quality Rating	BAF Ref	Impact on BAF Risk Rating
n/a	3	n/a

1. Executive Summary

In August 2014, new model rules for governor elections were launched to allow for electronic voting for the first time as well as preserving the option for paper based voting. In order to adopt the new model election rules, the Trust must follow the required process for amending the constitution.

The Council of Governors considered and approved the proposed changes at their meeting on 2nd March 2015.

The Board of Directors is now asked to consider and support the proposed changes to the Constitution (last revised in July 2014), as outlined within this paper.

2. Background

The Trust currently utilises the Model Election Rules that were in place at the time of authorisation in December 2009. These are set out at Annex 4 of the Trust's constitution.

Adopting the new Model Election Rules 2014 will simply give the Trust more flexibility to ensure the nomination and voting processes involved in such elections become more accessible. For example, the Trust will be able to offer members the option to vote in other ways in addition to the traditional paper ballot. This would include the option to introduce online voting through a secure website/online voting system managed by the appointed electoral administrators and, it would also enable the Trust to consider other voting options such as introducing a SMS text vote system and/or telephone voting.

It is important to note the proposed changes do not mean eradicating paper based voting but provide opportunity to offer other ways of voting which will complement this.

3.0 Proposed Amendments to Constitution

3.1 Amendment to Paragraph 10.2 (Page 3 of Constitution)

Currently:

“The Model Election Rules, as published from time to time by the Department of Health, form part of this constitution. The Model Election Rules current at the date of the Foundation Trust’s authorisation are attached at Annex 4.”

“Amendment to:

“The Model Election Rules 2014 for use in elections to Foundation Trust councils of governors are attached at Annex 4.”

3.2 To replace Annex 4 ‘Model Election Rules’

To replace Annex 4 Model Election Rules with the new 2014 Model Election Rules which have been approved by the Department of Health and Monitor, as piloted by Foundation Trust Network and Lancashire Teaching Hospitals. Proposed key changes within the 2014 Model Election Rules (Annex 4) include:

Nominations

- “It is not necessary for a nomination to be on a form supplied by the returning officer and a nomination can be in an electronic format (Rule 9.2)
- “Signed and dated by the candidate, in a manner prescribed by the returning officer (Rule 13.1)

Voting

- “The corporation may decide that voters may cast their votes at the poll using such different methods of polling in any combination as the corporation may determine (Rule 19.3) AND
- The corporation may decide that voters for whom an email address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling (Rule 19.4)
- “The corporation is to provide the returning officer with a list of the members who are eligible to vote (Rule 22.1)
- The list is to include, for each member:
 - a) A postal address and,
 - b) The member’s email address, if this has been provided to which his or her voting information may subject to rule 22.3, be sent (Rule 22.2)
- The corporation may decide that the e-voting information is to be sent only by email to those members in the list of eligible voters for whom an email address is included in that list (Rule 22.3)
- The corporation may determine that any member of the corporation shall:
 - a) only be sent postal information; or
 - b) only be sent e-voting information; or

c) be sent both postal voting information and e-voting information (Rule 24.3)

Other Changes

- Changes around what is included in Notice of Election (8) and Notice of Poll (23)
- Amendments to enable electronic declaration of identity requirements (21.1 and 26)
- Setup and requirements of e-voting systems (26 and 33-35)
- De-duplication of votes (39) – to ensure the first vote counts and ensuring no duplication of voting.

3.3 Reason for making these changes

3.3.1 Paragraph 10.2

The proposed 2014 Model Election Rules are the latest rules, which we propose to adopt. Taking out reference to the rules being current at the date of Foundation Trust authorisation in 2009, will ensure accuracy and be in line with this change.

3.3.2 Annex 4 – Model Election Rules

- To adopt the most up to date Model Election Rules, as approved by Department of Health and Monitor.
- To keep in line with the rest of the Foundation Trust sector, staying at the forefront of elections for FT Council of Governors.
- To improve accessibility for voting in elections – offering more than one method of casting votes.

4.0 Approving the Changes to the Constitution

The process for amending the constitution is set out in Paragraph 41.

No amendment shall be made unless :

- i) it has been approved by more than half of the members of the Council of Governors of the FT voting; and
- ii) it has been approved by more than half of the members of the Board of Directors voting.

The Council of Governors voted in favour of these amendments on 2nd March 2015 and if the Board of Directors also votes in favour then the changes to the constitution will take immediate effect.

5.0 Recommendation

It is recommended that the Board of Directors consider and support the resolutions to amend the constitution Paragraph 10.2 and Annex 4 as described, enabling the new election rules to be adopted.