

## CHAIRS AND NON-EXECUTIVE DIRECTORS OF NHS TRUSTS INFORMATION ABOUT YOUR APPOINTMENT

*This is important information about your public appointment, please read it carefully and contact the [Non-executive Appointments Team](#) at NHS Improvement should you have any queries. You should also notify NHS Improvement if there is any change to your situation or connections during the period of your appointment.*

1. **Statutory basis for appointment** – Chairs and non-executive directors hold a statutory office under the National Health Service Act 2006. The appointment and tenure of office are governed by the NHS Trusts (Membership and Procedure) Regulations 1990. Your appointment is made by NHS Improvement using powers delegated by the Secretary of State for Health. It does not create any contract of service or contract for services between you and the Secretary of State, the NHS Trust to which you have been appointed or NHS Improvement.

Chairs and non-executive directors have full voting rights as members of the board. You will perform statutory and other duties and exercise powers in relation to the Trust as set out in the description of your role, and as the Trust or the board may from time to time require. You will serve the Trust to the best of your ability and use your best endeavours to promote the interests and welfare of the Trust. NHS Improvement has a duty to hold the chair and non-executive directors individually and collectively to account for the performance of the board.

2. **Employment law** – This is a public appointment and not employment and therefore does not fall within the jurisdiction of Employment Tribunals.
3. **Principles of public life** - Public service values are at the heart of the NHS and Trust boards play a critical role in shaping and exemplifying an organisational culture that is open, accountable, compassionate, and puts patients first. Respect, compassion and care are at the centre of good leadership and governance in the NHS, and organisational and personal interests must never be allowed to outweigh the duty to be honest, open and truthful with patients and the public. You are therefore expected to:
  - understand and commit to the personal behaviours, values, technical competence and business practices outlined in "[The standards for members of NHS boards and clinical commissioning group governing bodies in England](#)" produced by the Professional Standards Authority;
  - reflect the standards of selflessness, integrity, objectivity, accountability, openness, honesty and leadership set out in the Seven Principles of Public Life;
  - be honest, open and truthful in all dealings with patients and the public; and
  - uphold the policies and procedures adopted by the Trust, insofar as they are applicable to your role.
4. **Tenure of office** – Your tenure of appointment will be confirmed in your letter of appointment.
5. **Remuneration** – You are entitled to be remunerated by the NHS Trust for as long as you continue to hold office as chair or non-executive director. The level of remuneration payable is set by the

Secretary of State for Health and is set out in your letter of appointment or any subsequent notification. You are entitled to receive remuneration only in relation to the period for which you hold office. You do not have any entitlement for compensation for loss of office should your appointment come to an end before the end of the term set out in your appointment letter. Your appointment does not fall within the remit of the NHS Pension Scheme.

6. **Tax and National Insurance** – Your remuneration is taxable under “chargeable as employment income” and subject to Class 1 National Insurance contributions. Any queries on these arrangements should be taken up with HM Revenue and Customs.
7. **Allowances** – Your Trust will provide you with what you need to perform your role effectively. You are entitled to claim allowances for travel, subsistence and other expenses for legitimate costs incurred on Trust business. Any additional expenses should be paid in line with local practice and further advice is available on our [website](#).
8. **Time commitment** – These are part time roles with considerable flexibility, and may require both day and evening work according to the requirements of the Trust. You are expected to make every reasonable effort to attend all meetings of the board and appropriate committees and to undertake any training and development required to ensure that you are able to fulfil your role and responsibilities.
9. **Public speaking** – On matters affecting the work of the NHS Trust, you should not normally make political speeches or engage in other political activities. In cases of doubt, the guidance of the Non-executive Appointments Team at NHS Improvement should be sought.
10. **Conflicts of interest** – You are required to declare on appointment any business interests, position of authority in a charity or voluntary body in the field of health and social care, and any connection with bodies contracting for NHS services. These must be entered into a register by the NHS Trust, which is available to the public.
11. **Indemnity** – The NHS Trust is empowered to indemnify you against any personal liability which you may incur in certain circumstances whilst appropriately carrying out your duties. HSC 1999/104, which is available locally, gives details.
12. **Additional information** - Information to support chairs and non-executive directors in their roles, including advice on induction and appraisal, can be found [on our website](#). The Non-executive Appointments Team is also available to provide advice and guidance on NHS trust appointments and governance issues.
13. **Extensions and reappointments** – Your initial appointment may be extended by NHS Improvement as permitted under the legislation. An extension will generally be considered when NHS Improvement considers that you continue to meet the needs of the organisation and that you have performed well during your current period in office.

You may also be considered for reappointment at the end of your initial or extended term of office. You do not, however, have any right to an extension or reappointment. At the end of each appointment, NHS Improvement will consider afresh the question of whether you should remain in post. Your annual performance appraisal will be an important part of the evidence to be taken into account when an extension or reappointment is being considered. In general, you will only be considered if your performance has been assessed as satisfactory or better.

The challenges faced by boards can change over time, however, and to ensure that the board is equipped for its future role, NHS Improvement will also take into account the performance of the organisation, the make-up of the board in terms of its skills and geographical representation, and the board dynamics and effectiveness of its team working when deciding whether to extend an appointment or to offer a further term of office. This might lead to an open competition even if you have previously performed well in the role.

14. **Period in office** – You will generally serve no more than eight years in one post although, depending on individual circumstances, you may remain in post for a maximum of ten years.
15. **University and Local Authority nominees** – If you have been appointed following a nomination from a university or local authority, you will need to be nominated again before being considered for an extension or reappointment. If you cease to hold a post with the nominating body you should advise the Non-executive Appointments Team immediately.
16. **Removal from office** - When you cease to hold your appointment, for whatever reason, you agree to immediately return all Trust property which is in your possession or under your control; and irretrievably delete or destroy any electronic or other information relating to the business of the Trust which is in your possession or under your control outside of the Trust's premises; and if requested, provide a signed statement that you have complied with this obligation.
  - a. **Resignation** – You may resign at any time by giving notice in writing to NHS Improvement. Where possible, chairs should first liaise with NHS Improvement and non-executive directors with their chair to agree a leaving date.
  - b. **Termination of appointment** – Regulation 9 of the NHS Trusts (Membership and Procedure) Regulations 1990 sets out the grounds on which your appointment may be terminated with immediate effect. They are:
    - i. If you are, or become, disqualified for appointment.
    - ii. If it is considered that it is not in the interests of the health service that you should continue to hold office.
    - iii. If you do not attend a meeting of the Trust for a period of three months.
    - iv. If you do not properly comply with the requirements of the regulations with regard to pecuniary interests in matters under discussion at meetings of the Trust (e.g. a failure to disclose such an interest).
    - v. If you fail to disclose a non-pecuniary conflict of interest.
    - vi. If you are appointed following a nomination from a university or local authority and you cease to hold a post with the nominating body.

The following list provides examples of matters which may indicate that it is no longer considered to be in the interests of the health service that you continue in office. It is not intended to be exhaustive or definitive; NHS Improvement will consider each case on its merits, taking account of all relevant factors.

- vii. If you are found to be an unfit person as set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- viii. If an annual appraisal or a sequence of appraisals is unsatisfactory.
- ix. If you no longer enjoy the confidence of your chair, other board members, the public or local community, or NHS Improvement in a substantial way.
- x. If [as Chair] you fail to ensure that the board monitors the performance of the Trust in an effective way.
- xi. If you fail to meet agreed objectives.
- xii. If there is a breakdown in essential relationships, e.g. between you and the Chair, you and the Chief Executive, you and NHS Improvement, or between you and other members of the board.
- xiii. If you fail to apply the principles set out paragraph 3 above.
- xiv. If you fail to comply with the letter and / or principle of the Trust's internal policies and procedures, as applicable.
- xv. If an investigation into allegations of wrong doing results in a finding against you.
- xvi. If a capability or other board effectiveness review indicates that you are not making a full contribution to the board.
- xvii. If a chair has reviewed the contribution of the Trust's non-executive directors and identified performance issues and / or skills gaps.

If you are disqualified from continuing as a chair or non-executive director on any of the grounds set out above, you should immediately give notice in writing to NHS Improvement. You are also required to declare immediately if you are ever arrested, have any pending prosecutions or convictions (including driving offences) or if you have accepted any police cautions.

- c. **Suspension of appointment** – Under Regulation 9A of the Membership and Procedure Regulations you can be suspended from performing your functions as chair or non-executive director while consideration is given to whether your appointment should be terminated as set out in paragraph 16b above. An initial period of suspension will not exceed 6 months, although in exceptional circumstances further periods of suspension may be considered. If you are suspended, you can request in writing a review of the decision.

Further information about how NHS Improvement will establish whether and how a chair or non-executive director of an NHS trust should be suspended or removed from office is available on our [website](#).