

TRUST BOARD IN PUBLIC	Date: 24th April 2014	
	Agenda Item: 4.2	
REPORT TITLE:	Foundation Trust Consultation Outcome and Trust Response	
EXECUTIVE SPONSOR:	Michael Wilson Chief Executive	
REPORT AUTHOR:	Gillian Francis-Musanu Director of Corporate Affairs & Val Thompson, Interim FT Programme Manager	
REPORT DISCUSSED PREVIOUSLY:	FT Project Board: 3.4.14	
Purpose of the Report and Action Required: (√)		
The Trust Board is asked to approve 1. The draft consultation report 2. The recommended changes to the composition of the Council of Governors.	Approval	√
	Discussion	√
	Assurance	
Summary: (Key Issues)		
<p>Aspirant NHS foundation trusts are required to undertake a formal public consultation on their proposals for foundation trust status including the proposed governance arrangements. As part of the FT application the Trust is required to compile and publish a report on the outcome of consultation and consider any changes to the membership strategy, governance rationale and constitution that may be required as a result of the consultation.</p> <p>The majority of responses to the public consultation supported the proposals for SaSH to become an NHS Foundation Trust with only one formal response being against the proposal. One other response, from two CCGs, contained caveats relating to financial constraints for the health economy.</p> <p>The FT Project Board, having considered the draft report on the outcome of consultation, recommends to the Trust Board the following changes to the composition of the Council of Governors:</p> <ul style="list-style-type: none"> • Patient Governors (outside catchment area) be reduced to one • Nominated Governors being reduced by two <p>This would give a total membership of the Council of Governors of 23 of which 12 would be elected public or patient governors, ensuring the statutory requirement for a majority of the governors to be public or patient governors.</p>		
Relationship to Trust Strategic Objectives & Assurance Framework:		
<p>Strategic Objective 1: Deliver Safe services and be in the top 20% against our peers</p> <p>Strategic Objective 4: Become the secondary care provider and employer of choice for the catchment population of Surrey & Sussex</p> <p>Corporate Objective 5: Be a well-led organisation</p>		

Corporate Impact Assessment:	
Legal and regulatory implications	Aspirant NHS foundation trusts are required to undertake a formal public consultation on their FT proposals including membership and governance arrangements.
Financial implications	NHS Foundation Trusts are required to comply with Monitor's Risk Assessment Framework (previously the Compliance Framework)
Patient Experience/Engagement	NHS Foundation Trusts are membership organisations with a Council of Governors which represents the interests of members of the trust and the public. The Council of Governors also holds the non-executive directors to account for the performance of the Board of Directors.
Risk & Performance Management	NHS Foundation trusts operate under licence from Monitor which stipulates any condition under which the trust must operate. Compliance with governance and continuity of service licence provisions is through the Monitor Risk Assessment Framework
NHS Constitution/Equality & Diversity/Communication	NHS Foundation Trusts have their own constitution which reflects the requirements of the Health and Social Care Act 2012
Attachments: Draft Consultation Report	

TRUST BOARD REPORT – 22ND APRIL 2014

FOUNDATION TRUST CONSULTATION OUTCOME AND TRUST RESPONSE

1. Introduction

There is a statutory requirement for aspirant NHS Foundations Trusts (FT) to undertake a formal public consultation on their FT proposals including the membership and governance arrangements. Following consultation, trusts have to prepare a Consultation Report summarising the approach to consultation, the consultation response and the Trust's response to that consultation feedback.

The statutory consultation commenced on 21 November 2013 and ended on 28 February 2014.

The draft consultation report has been considered by the FT Project Board which, in response to the consultation, recommends changes to the composition of the Council of Governors. The draft consultation report is attached for assurance and approval.

2. Response to consultation

The consultation engaged with many people including patients, members of the public, staff, stakeholders and user and interest groups.

The vast majority of consultees were in favour of the Trust's FT proposals and all the questions posed in the consultation documentation were supported by a majority of those who responded.

Several responses either challenged the proposals and / or suggested alternatives as summarised below:

Consultation response	Considerations for the Trust
<p>Objectives and plans for the future</p> <p>Members of the public and patients were concerned that FT status was no longer a 'guarantee' of quality and cited Mid Staffs and Morecambe Bay as examples of where the quality of care in FTs has been unacceptable poor.</p>	<p>The quality failures in some FTs were acknowledged.</p> <p>There is now a much greater emphasis on service quality for all Trusts, whether or not they are FTs. Also, all aspiring FTs now have to satisfy the new Chief Inspector of Hospitals as to the quality of services they provide before they can be authorised as an FT.</p>

<p>Only two CCGs responded to the consultation and they were concerned that the Trust's plans were expansionist and would pose a financial risk to CCGs</p>	<p>The challenges of managing demand and resource are acknowledged across the health system as is a need for all organisations to work together to manage this. The Trust is actively engaged in joint planning with CCGs.</p> <p>The Trust's plans for expanding the range of services provided at ESH align with CCG plans to repatriate specialist activity from tertiary hospitals especially those in London and to provide accessible services closer to home.</p>
<p>Membership</p> <p>A number of respondents questioned the rationale for a Croydon public constituency</p>	<p>The public constituencies, including those in the south of Croydon, were determined on the basis of those electoral wards where 10% or more of the resident population has received hospital treatment at SaSH.</p>
<p>More than a third of respondents disagreed with the proposal for children aged 14 years and above to be eligible to be members.</p>	<p>Two thirds of respondents agreed with the age limit of 14+ for membership.</p> <p>The proposal to allow those aged 14yrs+ to be members supports the Trust's commitment to engage with younger people and to get their input in to the way services are provided.</p> <p>The Trust will look to develop specific ways in which we engage young people.</p>
<p>Several respondents suggested that patients and carers living in a public constituency should be able to choose whether to be a patient or a public member (and so the category of Governor they could stand for election to)</p>	<p>The Trust previously considered including all patients in the patient constituency with the public constituencies reserved for those who lived in the catchment area but did not meet the eligibility requirements for the patient constituency. This was discounted as being too complex to administer.</p> <p>The current approach is consistent with that adopted by a number of other FTs.</p>

<p>Council of Governors</p> <p>Several respondents were concerned that if the patient constituency remains as currently proposed then the number of Governors for the constituency is too large.</p> <p>There was also a concern that the elected Governors should be representative of the patient population (in terms of age, ethnicity, socio-economic status etc) not just the population as a whole.</p>	<p>The number of patient governors could be reduced to better reflect the size of the constituency. To retain the balance of elected and appointed Governors this would require a corresponding increase in the number of elected governors in one or more public constituencies or a reduction in the number of appointed Governors.</p> <p>The relevant Health Acts require that the membership is representative of the population served not the patient population.</p> <p>Regular analysis of the membership database will be used to ensure that, as far as possible, the membership is representative not just of the local population but of the patient population.</p> <p>The expectation is that a significant proportion of members of the public constituencies will be patients who will be able to stand for election as governors.</p>
<p>Other suggestions relating to elected Governors were:</p> <ul style="list-style-type: none"> • Having a 5th staff Governor to represent patient interests • Having an additional nurse / midwife governor • Having additional staff governors as staff make up c30% of the membership 	<p>Patient interests are represented by the Patient Governors.</p> <p>Having any additional staff governors would require a commensurate increase in the number of elected governors which isn't considered feasible for the reasons outlined below.</p> <p>By virtue of being a member of staff, staff members will automatically have more opportunities to give and receive feedback from the Trust.</p>
<p>Suggestions relating to the appointed Governors were:</p> <ul style="list-style-type: none"> • There should be additional representation from 'special interest' / user groups e.g. third sector, long term mentally ill, disabled, elderly, carers • It will be difficult to have just one umbrella organisation for voluntary sector covering two counties and similarly for Healthwatch 	<p>The Health Acts require that more than half of the members of the Council of Governors are elected by the public and patient constituencies (where there is a patient constituency).</p> <p>Therefore any additional appointed Governors would require a corresponding increase in public / patient governors. At 28 the size of the Council of Governors is considered as large as is feasible to be</p>

<ul style="list-style-type: none"> • Reigate and Banstead should have an additional governor • Not having an appointed Governor for Croydon could make the Croydon public governor feel quite isolated 	<p>effective.</p> <p>The Council of Governors needs to be of a manageable size and to include a broad range of partner representation. The proposal for one governor representing the voluntary sector, and one for Healthwatch, supports this.</p> <p>The population of the Reigate and Banstead constituency is not significantly larger than for the constituencies of Crawley, Horsham or Tandridge.</p>
<p>Name of Trust</p> <p>20% of respondents disagreed with the proposed name – Surrey and Sussex NHS Foundation Trust.</p> <p>Suggestions for changes included</p> <ul style="list-style-type: none"> • The name should include the word <i>hospital</i> • The name should better describe the services provided <p>Alternative suggestions were:</p> <ul style="list-style-type: none"> • ESNEWS – East Surrey and North East West Sussex • REACH – Royal Earlswood and Community Health • East Surrey • East Surrey and Mid Sussex 	<p>The majority of those responding agreed with the proposed name of the Trust – Surrey & Sussex NHS Foundation Trust.</p> <p>However it is noted that this change may incur additional costs.</p>

3. Recommendation

The FT Project Board at its meeting on 3rd April 2014 having considered the draft report on the outcome of consultation recommends the following changes to the composition of the Council of Governors:

- The Patient Governors (outside catchment area) be reduced to one
- The nominated governors be reduced to two (with only two CCG nominated governors)

The membership of the council of Governors would be constituted as follows:

Constituency		Governors
Public	Mole Valley District	1
Public	Reigate & Banstead	2
Public	Tandridge District	2
Public	Crawley District	2
Public	Horsham	2
Public	Mid Sussex	1
Public	Croydon (Coulsdon East, Coulsdon West, Kenley, Purley and Sanderstead wards)	1
Total Public Elected Governors		11

Constituency		Governors
Patient	All patient members living outside the public constituencies	1
Total patient elected Governors		1

Staff Class		Governors
Staff	Medical & Dental	1
Staff	Nursing & Midwifery	1
Staff	Other Clinical	1
Staff	All non-clinical staff	1
Total Staff Elected Governors		4

Nominated	Appointed by	Governors
Clinical Commissioning Group	*Crawley CCG and Horsham & Mid Sussex CCG	1
Clinical Commissioning Group	*East Surrey CCG and Surrey Downs CCG	1
Local Authority	Surrey County Council	1
Local Authority	West Sussex County Council	1
Partner	Health Watch	1
Partner	Brighton & Sussex Medical School	1
Partner	Voluntary Sector Umbrella organisation	1
Total nominated Governor's		7

* Governors nominated by CCGs will not be part of the board of the CCG.

The Council of Governor's will therefore be made up of:

- Total elected public and patient governors = 12 (more than half) + 4 elected staff governors = 16
- Total nominated governors = 7

Total Governors on Governor's Council	23
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This would give a total membership of the Council of Governors of 23 of which 12 would be elected public or patient governors, ensuring the statutory requirement for a majority of the governors to be public or patient governors.

3.2 The Board is asked to approve the recommendation from the Foundation Trust Project Board.

3.3 Draft Consultation report

The draft Consultation report has been updated in the required Monitor template is attached for your information. Once finalised, this report will be made available on the Trust's website and an email link send out to members and all those who attended the public and staff consultation events. The final report will also be part of the Trust's submission to the TDA and finally to Monitor.

Both the Constitution and Membership strategy will be updated to reflect the decision of the Board.

Michael Wilson
Chief Executive
April 2014

Gillian Francis-Musanu
Director of Corporate Affairs