

BOARD OF DIRECTORS MEETING (Open)

Date: 13 November 2019

Item Ref:

12b

TITLE OF PAPER	Leave of Absence for Non - Executive Director during Parliamentary Campaign
TO BE PRESENTED BY	Phillip Easthope, Director of Finance / Interim Deputy Chief Executive
ACTION REQUIRED	The Trust Board are asked to NOTE the legal advice and actions taken

OUTCOME	Effective management of the corporate governance process operated by the Trust
TIMETABLE FOR DECISION	Action taken by the Chair, Chief Executive and Interim Deputy Chief Executive to manage the position following the suspension of Parliament on 5 November 2019 and the outcome of the election on 12 December 2019.
LINKS TO OTHER KEY REPORTS / DECISIONS	Links to the Trust's Constitution and the Managing of Conflicts of Interest Policy
STRATEGIC AIM: STRATEGIC OBJECTIVE: BAF RISK NUMBER: BAF RISK DESCRIPTION:	Quality & Safety Effective governance, quality assurance & improvement will underpin all we do A101iii Risk that Trust governance systems are not sufficiently embedded
LINKS TO NHS CONSTITUTION & OTHER RELEVANT FRAMEWORKS, RISK, OUTCOMES ETC	Links to the Trust's Constitution and the Managing of Conflicts of Interest Policy
IMPLICATIONS FOR SERVICE DELIVERY & FINANCIAL IMPACT	There is no direct impact or implications for service delivery or Trust finances
CONSIDERATION OF LEGAL ISSUES	Legal advice has been taken from DAC Beachcroft regarding this matter

Author of Report	Jill Dentith
Designation	Governance Consultant
Date of Report	5 November 2019

SUMMARY REPORT

Report to: BOARD OF DIRECTORS

Date: 13 November 2019

Subject: Leave of Absence for Non - Executive Director during Parliamentary Campaign

Author: Jill Dentith, Governance Consultant

1. Purpose

<i>For approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information</i>	<i>Other (Please state below)</i>
				<input checked="" type="checkbox"/>	
<p>Section 34 of the Trust's Constitution specifies how the Trust should manage any conflicts of interest of the Board Directors. This paper is to update the Trust Board on actions taken to manage a potential conflict of interest of a Non-Executive Director linked to her nomination as a candidate in the current general election campaign. The paper also gives a brief outline of the Purdah requirements.</p>					

2. Summary

Councillor Olivia Blake was nominated by Sheffield City Council as the Local Authority Non-Executive (NED) of the Trust's Board, in accordance with Annex 7, Section 10.6 of the Trust's Constitution. Cllr. Blake has now been nominated as a candidate in the current general election campaign.

Board members will be aware that a pre-election period, also referred to as 'purdah' or the 'period of sensitivity', is the period of time immediately before elections or referendums. During this time specific restrictions are placed on the use of public resources and the communication activities of public bodies, civil servants and local government officials. The pre-election period is designed to avoid the actions of public bodies distracting from or having influence on election campaigns.

In relation to the specific issue regarding Cllr. Blake the Trust have taken legal advice and have been advised that if Cllr. Blake does run and is elected, then she must resign her position with the Trust before taking up office as an MP in accordance with section 1 of the House of Commons Disqualification Act 1975 ("Act").

However, prior to the election the Trust need to follows due process to manage the potential conflict of interest. To that end the Trust have taken legal advice and have two possible courses of action:

- Asking Cllr. Blake to take a leave of absence; or
- Asking Cllr. Blake to resign as a Non-Executive Director.

The Chair, Chief Executive and Interim Deputy Chief Executive have therefore considered these options and feel that the most appropriate course of action would be to ask Cllr. Blake to take a leave of absence for the period of the campaign. Subject to the outcome of the election the Trust would then review the position. If Cllr. Blake is elected, the Act requires that she resign any public office she holds, including as a Non-Executive Director, before taking up the position in Parliament. This will have to take place shortly after the results are declared. However, if Cllr. Blake is not successful, there is no prohibition on her holding a public position again, or resuming her public position because the conflict of interest no longer exists.

As Cllr. Blake is the Local Authority nominated Non-Executive there will be a requirement for the Local Authority to confirm that she would remain as their nominated representative. If this were the case there would then need to be a process in place to ensure that for a short period of time, likely a few months, when she will not participate in any decision that are politically sensitive. The Chief Executive of Sheffield City Council has therefore been copied into correspondence with Cllr. Blake regarding this matter.

At the Council of Governors meeting on 31 October 2019 Governors were updated on the situation regarding Cllr. Blake's position.

The Trust and Local Authority position would be taken into account when agreeing next steps following the outcome of the election on 12 December 2019.

3. Next Steps

The Trust Board are asked to NOTE the information above and below to manage the situation. A further report will be made to the Trust Board following the results of the general election.

4. Required Actions

In the interim the Trust will also be updating the NED's entry on the Conflicts of Interest Register, which is publicly available, and making a statement (this report) regarding the position and actions taken at this public Trust Board meeting. Actions will also be taken to ensure that any payments for the role of a Non-Executive Director will be suspended for the period of the leave of absence as will the NED's Trust email account and access to the Trust's intranet.

The Trust have also advised the Chief Executive of the Local Authority regarding the actions taken.

5. Monitoring Arrangements

The Chair, Chief Executive and Interim Deputy Chief Executive will monitor the arrangements and advise the Trust Board accordingly.

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