

## Board of Directors – Extra Ordinary Public

### SUMMARY REPORT

Meeting Date:

22 December 2021

Agenda Item:

03

|   |  |                      |
|---|--|----------------------|
| <b>Report Title:</b>  | <b>Appointment of Senior Independent Director (SID)</b>                |                      |
| <b>Author(s):</b>   | Susan Rudd, Director of Corporate Governance                           |                      |
| <b>Accountable Director:</b>  | Sharon Mays, Chair   |                      |
| <b>Other meetings this paper has been presented to or previously agreed at:</b> | <b>Committee/Tier 2 Group/Tier 3 Group</b>                             | Council of Governors |
|   | <b>Date:</b>   | 14 December 2021     |
| <b>Key points/ recommendations from those meetings</b>                          | To approve the appointment of Anne Dray as Senior Independent Director |                      |

### Summary of key points in report

The current Senior Independent Director, Sandie Keene, is leaving the Trust at the end of December 2021 and the appointment of a replacement SID is required.

The report sets out the appointment process, consultation with the Council of Governors and recommendation for appointment.

### Recommendation for the Board/Committee to consider:

**Consider for Action**

**Approval**

✓

**Assurance**

**Information**

The Board of Directors is asked to Approve the appointment of Anne Dray as Senior Independent Director, effective from 1 January 2022.

| Please identify which strategic priorities will be impacted by this report:                   |     |   |    |                               |
|---|-----|---|----|-------------------------------|
| Covid-19 Recovering effectively   | Yes | ✓ | No |                               |
| CQC Getting Back to Good – continuous improvement   | Yes | ✓ | No |                               |
| Transformation – Changing things that will make a difference                                  | Yes | ✓ | No |                               |
| Partnerships – working together to make a bigger impact                                       | Yes | ✓ | No |                               |
| <b>Is this report relevant to compliance with any key standards ? State specific standard</b> |     |   |    |                               |
| Care Quality Commission Fundamental Standards   | Yes |   | No |                               |
| Data Security and Protection Toolkit  | Yes |   | No | ✓                             |
| Any other specific standard?  |     |   |    |                               |
| <b>Have these areas been considered ? YES/NO</b>  |     |   |    |                               |
| If Yes, what are the implications or the impact?<br>If no, please explain why                 |     |   |    |                               |
| Service User and Carer Safety and Experience  | Yes |   | No | Not required for this purpose |
| Financial (revenue & capital)   | Yes |   | No |                               |
| Organisational Development /Workforce   | Yes |   | No |                               |
| Equality, Diversity & Inclusion   | Yes |   | No |                               |
| Legal   | Yes |   | No |                               |

### Section 1: Analysis and supporting detail

#### Background

The Trust's Senior Independent Director (SID), Sandie Keane will be leaving the Trust at the end of December 2021.

The NHS Foundation Trust Code of Governance recommends the Board should appoint one of the independent non-executive directors (NED) to be the SID to provide a sounding board for the Chair and to serve as an intermediary for the other directors when necessary. The Senior Independent Director would also lead the Non-Executive Directors in the evaluation of the Chairman. It is important that the Senior Independent Director is seen to be independent of the Chairman.

*"Your Statutory Duties: A Reference Guide for Foundation Trust Governors"* states that the SID should act as the point of contact with the Board of Directors if Governors have concerns which approaches through normal channels have failed to resolve or for which such normal approaches are inappropriate. The SID may also act as the point of contact with the Board of Directors for Governors when they discuss, for example, the chair's performance appraisal and his or her remuneration and other allowances.

#### Process for Appointment

##### Constitutional Requirements and Code of Governance Provision

The Trust Constitution states:

*"2.13 – the Board of Directors shall appoint one of the Non-Executive Directors to be the Senior Independent Director, in consultation with the Council of Governors. The Senior Independent Director shall be available to Members and Governors if they have concerns which contact through the normal channels of the Chair, Chief Executive or Finance Director has failed to resolve or for which such contact is inappropriate."*

The NHS Foundation Trust Code of Governance states:

*"A.4.1 – In consultation with the council of governors, the board should appoint one of the independent non-executive directors to be the senior independent director"*

##### Recommendation for appointment as Senior Independent Director

The Trust Chair sought expressions of interest from all NEDs and Anne Dray expressed a desire to undertake the role. Anne has a range of skills and qualities to bring to the role and has the capacity to fulfil the responsibilities as outlined in the role description at Appendix 1. It is a role she has undertaken previously at another Trust.

The Board recommended the appointment of Anne Dray to the Council of Governors at its meeting on 14 December 2021. The recommendation was fully supported by the Council of Governors.

## **Section 2: Next Steps**

The Board is asked to approve the appointment of Anne Dray as Senior Independent Director with effect from 1 January 2022.

Appendix 1: Senior Independent Director Role Description

## Senior Independent Director

### Role Description

The senior independent director is a non-executive director appointed by the board of directors as a whole in consultation with the council of governors to undertake the role described below.

The senior independent director may be, but does not have to be the deputy chair of the board of directors.

The senior independent director will be available to members of the foundation trust and to governors if they have concerns which contact through the usual channels of chair, chief executive, finance director and company secretary has failed to resolve or where it would be inappropriate to use such channels.

The senior independent director should liaise with the lead governor (where one has been appointed) in the areas where their roles are complementary.

In addition to the duties described here the senior independent director has the same duties as the other non-executive directors

#### **The senior independent director, the chair and non-executive directors**

The senior independent director has a key role in supporting the chair in leading the board of directors and acting as a sounding board and source of advice for the chair.

The senior independent director also has a role in supporting the chair as chair of the council of governors.

The senior independent director should hold a meeting with the other non-executive directors in the absence of the chair at least annually as part of the appraisal process.

There may be other circumstances where such meetings are appropriate. Examples might include informing the re-appointment process for the chair, where governors have expressed concern regarding the chair or when the board is experiencing a period of stress as described below.

#### **The senior independent director and the council of governors**

While the council of governors determines the process for the annual appraisal of the chair, the senior independent director is responsible for carrying out the appraisal of the chair on their behalf as set out as best practice in the Code of Governance.

The senior independent director might also take responsibility for an orderly succession process for the chair role where a reappointment or a new appointment is necessary.

The senior independent director should maintain regular contact with the council of governors and attend meetings of the council of governors to obtain a clear understanding of governors' views on the key strategic and performance issues facing the foundation trust.

The senior independent director should also be available to governors as a source of advice and guidance in circumstances where it would not be appropriate to involve the chair; chair's appraisal or setting the chair's objectives for example.

In rare cases where there are concerns about the performance of the chair, the senior independent director should provide support and guidance to the council of governors in seeking to resolve concerns or, in the absence of a resolution, in taking formal action. Where the foundation trust has appointed a lead governor the senior independent director should liaise with the lead governor in such circumstances.

### **The senior independent director and the board**

In circumstances where the board is undergoing a period of stress the senior independent director has a vital role in intervening to resolve issues of concern. These might include unresolved concerns on the part of the council of governors regarding the chair's performance; where the relationship between the chair and chief executive is either too close or not sufficiently harmonious; where the trust's strategy is not supported by the whole board; where key decisions are being made without reference to the board or where succession planning is being ignored.

In the circumstances outlined above the senior independent director will work with the chair, other directors and/or governors, to resolve significant issues.

Boards of directors and councils of governors need to have a clear understanding of the circumstances when the senior independent director might intervene so that the senior independent director's intervention is not sought in respect of trivial or inappropriate matters.