

Proposed Suspension of Standing Order 2.2.2

Governing Body meeting

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5 July 2018

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Purpose of Paper	
<p>To advise Governing Body of an inconsistency which has been identified between section 6.6.2 of the main body of the CCG's Constitution and the Standing Orders (section 2.2.2) and which we need to address in order to proceed with the process for election of the CCG's Chair. The existing three year term of office of the CCG's Chair comes to an end on 31 October 2018 and under our Constitution we need to undertake an election process overseen by the CCG's Remuneration Committee.</p> <p>This paper proposes a pragmatic way forward to allow the CCG to remain in line with its Constitution (prior to seeking amendment through the usual rather cumbersome and time consuming route of Governing Body, GP Member Practices and NHS England) and allow timely election or re-election of the CCG's Chair.</p>	
Key Issues	
<ul style="list-style-type: none"> The CCG needs to have a Chair and needs to have a Remuneration Committee overseen process conducted in line with its Constitution by 31 October 2018. It would be very tight timing wise to get a change in the Constitution approved by the CCG's GP Membership and then NHS England and still have time to complete the election process for 31 October 2018. The pragmatic option which we have confirmed with our legal advisors would be appropriate is to enact Standing Order 3.9 Suspension of Standing Orders in relation to section 2.2.2 a) of the CCG's Standing Orders. 	
Is your report for Approval / Consideration / Noting	
Approval	
Recommendations / Action Required by Governing Body	
Governing Body is asked to Enact SO 3.9 and suspend SO 2.2.2(a), Chair, pending the review of the CCG's Constitution.	
Governing Body Assurance Framework	
<p><i>Which of the CCG's objectives does this paper support?</i></p> <p>This paper supports delivery of the CCG's Strategic Objective 5 - Organisational development to ensure CCG meets organisational health and capability requirements.</p>	

It also gives assurances against Risk 5.4 - Inadequate adherence to principles of good governance and legal framework leading to breach of regulations and consequent reputational or financial damage.

Are there any Resource Implications (including Financial, Staffing etc)?

No

Have you carried out an Equality Impact Assessment and is it attached?

Please attach if completed. Please explain if not, why not

Not applicable

Have you involved patients, carers and the public in the preparation of the report?

Not relevant

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1. Introduction

As part of the process of election of the Chair and in preparation of a paper for the Remuneration Committee to oversee the process, it has become apparent that there is an inconsistency between section 6.6.2 of the CCG's Constitution and 2.2.2 (a) of the Standing Orders.

Section 6.6.2 which covers the Composition of the Governing Body and in particular who are the voting members of Governing Body has stated since the CCG's inception the following:

".... The Governing Body will comprise:

- a) The Chair (who will be chosen from either (b) or (c) below and elected by the Governing Body;
- b) Four GPs (With one nominated by the practices in each Locality) to represent all Members in that Locality;
- c) Four other GPs who are elected by Member practices."

Thus it has always been the case in the Constitution that the CCG's Clinical Chair is elected from within the eight GP members of Governing Body by the voting members of Governing Body. This was the process used when the current Chair was re-elected back in July 2015 ready for a new three year term from 1 November 2015, with any of the existing Governing Body GPs having the opportunity to put themselves forward, be assessed against the criteria set out in the job description for Chair and an election take place. A paper to Remuneration Committee is planned which will set out the process in detail.

We have tracked back and when a large number of changes were made to section 2 of the Standing Orders back in July 2015, based on legal advice to provide greater detail in this section, we appear in error to have stated "one nomination from each of the four localities" when other nominations in this part of the Standing Orders eg how Locality GPs should be nominated, refers to the relevant section in the body of the Constitution.

2. Suspension of Standing Orders

Legal advice has been sought on the way forward and the advice confirms that whilst the requirements within the Constitution cannot be 'waived', the Constitution does allow for the suspension of the relevant Standing Order by enacting Standing Order SO 3.9:

"Except where this would contravene any statutory provision or any direction may by the Secretary of State any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Governing Body are present, (including at least one member who is an Officer Member of

the CCG and one member who is not) and that at least two-thirds of those members present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Governing Body's minutes."

In order to resolve the matter, the process for review of our Constitution must be enacted and plans are in place to take this forward as part of our overall review of the Constitution in the autumn. It is therefore recommended that Governing Body suspend SO 2.2.2(a), Chair, until the review of the Constitution is complete, approved by Governing Body, the Membership and NHS England. This will enable the process of election of the Chair to be taken forward in a timely manner and still in line with the main terms of our Constitution.

3. Recommendation

Governing Body is asked to Enact SO 3.9 and suspend SO 2.2.2(a), Chair, pending the review of the CCG's Constitution.

Paper prepared by: Sue Laing, Corporate Services Risk and Governance Manager

On behalf of Julia Newton, Director of Finance

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