

Borders NHS Board

Meeting Date: 2 April 2020

Approved by:	Ralph Roberts, Chief Executive
Author:	Iris Bishop, Board Secretary
TEMPORARY REVISION TO CORPORATE GOVERNANCE ARRANGEMENTS	
Purpose of Report:	
<p>The purpose of this report is to temporarily suspend the Code of Corporate Governance and Board Standing Orders in regard to Board meetings and Board Sub Committee arrangements only, until such time as the COVID 19 Pandemic has reduced to allow this temporary arrangement to be withdrawn.</p>	
Recommendations:	
<p>The Board is asked to approve the temporary revision to corporate governance arrangements as attached at Appendix 1.</p>	
Approval Pathways:	
<p>This report has been prepared specifically for the Board to enable it to address the pressures of the COVID 19 Pandemic in a realistic manner.</p> <p>In formulating the report the National Board Secretaries have shared their Health Boards proposed alterations to their governance arrangements during this period.</p>	
Executive Summary:	
<p>The Code of Corporate Governance and Board Standing Orders in regard to Board meetings and Board Sub Committee arrangements will be temporarily suspended.</p> <p>The Board will no longer meet in public.</p> <p>The Board will meet no less frequently than once a month. Where possible attendance will be facilitated via video conference call, telephone conference call, or other options in order to assist with social distancing requirements.</p> <p>The Board quorum will be no less than 6 members and must consist of the Chair and/or Vice Chair, 2 Non Executives, 2 Executives.</p> <p>Agenda items are likely to be verbal with any papers issued in electronic format only.</p> <p>The Board Sub Committees will be suspended with immediate effect.</p> <p>The revised Board will develop an Agenda that will incorporate the necessary legislative or regulatory aspects previously referred to the standing committees.</p>	

Arrangements will be reviewed monthly so that a return to the more established arrangements can be achieved at the earliest opportunity.	
Impact of item/issues on:	
Strategic Context	The challenges faced by the NHS, social care and the wider partnership systems require the Board to establish temporary and appropriate governance arrangements that respond to support the organisation in the coming months.
Patient Safety/Clinical Impact	The challenges faced by services requires the Board to recognise that front line staff, senior officers and the Executive Team must be allowed to deal with the Covid-19 Pandemic with as little distraction as possible.
Staffing/Workforce	The challenges faced by services requires the Board to recognise that front line staff, senior officers and the Executive Team must be allowed to deal with the Covid-19 Pandemic with as little distraction as possible.
Finance/Resources	The Board requires that the organisation continue to operate within an appropriate legal framework, acts in the best interests of the population, is efficient in the use of resources and puts the safety of staff and patients at the forefront of its efforts.
Risk Implications	The Board requires that the organisation continue to operate within an appropriate legal framework, acts in the best interests of the population, is efficient in the use of resources and puts the safety of staff and patients at the forefront of its efforts.
Equality and Diversity	Compliant
Consultation	None
Glossary	NHS – National Health Service COVID - Coronavirus.

Appendix 1**Introduction**

NHS Borders faces unprecedented demand as it responds to the COVID 19 Pandemic. Scotland, the wider UK and most international communities are facing prolonged stress to normal systems of work, socialisation and a major threat to economic wellbeing.

The challenges faced by the NHS, social care and the wider partnership systems require the Board to establish temporary and appropriate governance arrangements that respond to support the organisation in the coming months.

The following changes to the Governance Framework for the Board will be reviewed on a monthly basis so that a return to the more established arrangements can be achieved at the earliest opportunity.

The Board is able to suspend its Standing Orders as noted at Section A, Sub Section 13 of the Code of Corporate Governance**13. Suspension of standing orders**

13.1 So far as it is consistent with any statutory provisions, any one or more of the Standing Orders may be suspended at any meeting of the Board, but only as regards the business at such meeting, provided that two-thirds of the members present and voting so decide.

Principles underpinning the Revised Governance Framework

The challenges faced by services requires the Board to recognise that front line staff, senior officers and the Executive Team must be allowed to deal with the COVID 19 Pandemic with as little distraction as possible.

However, the Board requires that the organisation continue to operate within an appropriate legal framework, acts in the best interests of the population, is efficient in the use of resources and puts the safety of staff and patients at the forefront of its efforts.

The management and clinical community will need to be flexible in order to deploy resources where they can have best effect. Normal working conditions, team structures and bases of work will need to be amended to facilitate support to the front line effort.

The Board will need to ensure it provides support and where appropriate, challenge to the planning assumptions being made in order to ensure the organisation maximises its resilience to the challenges it faces.

The Board needs to ensure it recognises the difficult decisions that will be made regarding provision of care, deployment of services and reaction to the control planning arrangements under the pandemic response commands of Gold, Silver and Bronze.

The Board will need to record such decisions as best as possible in order to provide support to the staff making these difficult decisions. The Board must act to free the officers (working to specialist guidance, and Government directive) to adapt plans quickly to meet the changes in requirement that are likely to occur on a daily, if not more frequent basis.

Non executives should also be freed up to assist in leadership to the organisation and to the Communities of Scottish Borders.

Proposed Revised Governance Arrangements

It is proposed that the Board meets as a full body no less frequently than once a month. Where possible attendance will be facilitated via video conference call, telephone conference call, or other options in order to assist with social distancing requirements.

The Boards Sub Committees will be suspended with immediate effect. Any business from the Committees that requires the attention of the Board due to Government policy, directives, statutory or regulatory requirements will be addressed by the Board.

The revised Board will develop an Agenda that focuses on the response of the NHS, social care and partners to the COVID 19 Pandemic. The Board will formally receive and note guidance received from Government.

The agenda will incorporate the necessary legislative or regulatory aspects previously referred to the standing committees.

The Board will remain mindful to seek assurance that the organisation is:

- acting in the best interests of the long-term wellbeing of the Population;
- acting to promote and work within a strong partnership framework;
- protecting the public, patients, staff and contractors as best as is possible;
- maintaining a culture of openness and transparency in decision making;
- records key decisions made at service, patient level so that the appropriate support can be provided to staff who are having to make very difficult decisions regarding deployment of resources and access to services

The Code of Corporate Governance and Board Standing Orders in regard to Board meetings and Board Sub Committee arrangements will be temporarily suspended and replaced by the following arrangements:

The Board will function in accordance with the current agreed Code of Corporate Governance, other than for (A) the frequency of the meeting, (B) submission of papers, (C) Admission of Public and Press and (D) Quoracy as referenced below:

A. The Board is asked to specifically suspend Section A, Sub Section 2, Section 1.3 Calling and Notice of Meetings of the Code of Corporate Governance.

“Calling and Notice of Meetings

1.3 Ordinary meetings of the Board or Committees will be held in accordance with the timetable approved by the Board. Meetings of the Board will normally be held bi-monthly and not more than 3 months between meetings.”

Proposed revised arrangements:

The Board is recommended to hold meetings of the Board no less frequently than once a month via a telephone conference call, video conference call or other means to enable social distancing.

The Chair may call an extra-ordinary meeting of the Board at any time.

B. The Board is asked to specifically suspend Section A, Sub Section 2, Section 16.6 Minutes, Agendas and papers and Section 10.4 Submission of Reports of the Code of Corporate Governance

“16. Minutes, agendas and papers

16.6 The agendas and papers for all Board, Committee and Sub-Committee meetings shall be circulated to members at least 7 days before any given meeting, by post and/or electronic means.”

“10.4 Submission of Reports

10.4 All reports requiring decisions will be submitted in writing. Verbal reports will only be accepted in exceptional circumstances, and with the prior approval of the Chair of the Board or the Chair of the Committee.”

Proposed revised arrangements:

The Board is recommended to accept that the notice (agenda and papers) will be distributed to each Member within 3 working days before the date of the meeting, via electronic means only, other than in exceptional circumstances when notice must be given of when the papers will be released.

In order to free up officers to deal with the demands of the COVID 19 challenges, the Board will revert to accepting verbal reports as a matter of routine other than for reports on legal or regulatory matters.

The Board discussions will be correctly and accurately recorded as a minute – acting as a recorded reference of the issue reported to the Board. Where necessary the Board reserves the right to seek a specific written report on any matters that may arise from discussions that require such a record to be presented.

C. The Board is asked to specifically suspend Section A, Sub Section 2, Section 14.1 Admission of public and press of the Code of Corporate Governance.

“14. Admission of public and press

14.1 Members of the public and representatives of the Press will be admitted to every formal meeting of the Board but will not be permitted to take part in discussion. (Public Bodies (Admission to Meetings) Act 1960).”

The Public Bodies (Admissions to Meetings) Act 1960 requires NHS Board meetings to be held in public. However Section 1(2) of that Act states:

“A body may, by resolution, exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a

resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies.”

Proposed revised arrangements:

It should be noted that NHS Boards also have other legal duties to protect public health, and in light of the preventative measures put in place across the country, including social distancing, it is not appropriate to convene public meetings.

The Board will still publish its meeting papers on its website as it currently does.

It will also be necessary to stop convening meetings in the traditional way, and use other options.

D. The Board is asked to specifically suspend Section A, Sub Section 2, Section 5.1 Quorum of the Code of Corporate Governance.

“5. Quorum

5.1 The quorum for Board meetings is one-third of the whole number of Members, of which at least two are Non-Executive Members. No business shall be transacted at a meeting of the Board unless this is met. It is at the discretion of the Chair as to whether an inquorate meeting still take place even though it shall not be possible to make any decisions at such a meeting.”

Proposed revised arrangements:

The quorum will reflect the risk to attendance by prolonged sickness or absence as a result of the COVID 19 Virus.

No business shall be transacted at a meeting of the Board unless there are present, and entitled to vote, at least six members who shall include no less than the Chair and/or Vice Chair, two Executive Members and two Non-Executive Members.

Should the Board Chair not be present at the NHS Board meeting, the Vice Chair will be able to assume the role of Chair for the duration of the meeting. If the Chair and Vice Chair are not present, voting Board Members will be able to elect a Non-Executive Board Member to act as Chair for the duration of the meeting. This decision must be noted within the minute prior to the first agenda item being discussed.

If a quorum is not present ten minutes after the time specified for the start of a meeting of the Board, the Chair, subject to the business to be conducted, will determine if the meeting should be adjourned and rescheduled or continue with any decision being ratified thereafter.

If during any meeting of the Board a Member or Members are called away and the Chair finds that the meeting is no longer quorate, it would be the decision of the Chair as to whether the meeting is suspended or will continue to run, noting within the minute the points at which the meeting was not quorate.