

Board Meeting: 20 June 2018

Changes to process for extending NHS Health Scotland's non-executive appointments

Recommendation/action required:

The Board are asked to note this paper.

Author:

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Sponsoring Director:

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Chief Executive

13 June 2018

Changes to process for extending NHS Health Scotland's non-executive appointments

Purpose

1. This paper aims to record the plans to change the process by which NHS Health Scotland non-executives appointment terms are extended.

Background

2. The Public Appointments and Public Bodies etc. (Scotland) Act 2003 lays out the role and functions of the Public Appointments Commissioner. In schedule 2, the Authorities who come under the remit of the Commissioner are listed. Special Health Boards are included.
3. NHS Health Scotland will cease to exist as an NHS Board on the vesting of Public Health Scotland expected by November 2019.
4. NHS Health Scotland is in a position where it would be very difficult and not necessarily appropriate or proportionate, to appoint new members to replace those Board members whose terms complete before November 2019.
5. As NHS Health Scotland enters its last period, we want to achieve:
 - effective governance through working with members who have a deep understanding of the business and relevant expertise;
 - sufficient numbers of non-executives to continue robust scrutiny;
 - proportionate governance processes;
 - Board and Board Committees that run to schedule and are quorate.
6. The Scottish Government (SG) Sponsor Division have been in discussion with the office of the Commissioner for Ethical Standards in Public Life in Scotland. The Commissioner had indicated that he was content to approve a recent particular request for extension, until the end of 2018, on the basis that the SG Sponsor Division were pursuing parliamentary approval - using a clear timetable for the removal of NHS Health Scotland from his regulatory remit.
7. The SG Sponsor Division have drafted a Scottish Statutory Instrument (SSI) that will request an amendment to the 2003 Act removing NHS Health Scotland from the remit of the Commissioner, using secondary legislation.
8. Following approval from the Cabinet Secretary to proceed, the draft SSI can now be viewed on the Legislation UK website [here](#)
9. The changes, if approved by the Scottish Parliament, will come into effect at the end of October 2018.

10. Removing NHS Health Scotland from the Commissioner's remit and making the case for any further extension of non-executives terms directly to the Cabinet Secretary, will assist NHS Health Scotland to remain as fully functioning a Board as possible in the latter stages of its life, if sufficient members whose terms are due to end before November 2019 agree to the limited extension of their NHS Health Scotland Board membership.

Finance and Resource Implications

11. There are no additional finance or resource implications.

Staff Partnership

12. There are no staff partnership implications.

Communication and engagement

13. There has been communication and engagement with the SG Sponsor Division to understand the implications of this change and communicate it to and with Board members in advance of the request being made to the Cabinet Secretary.

Corporate Risk

14. The process outlined in this paper aims to mitigate issues associated with corporate risk number 18-3. "As a result of the transition of governance to the new public health body or a lack of contingency planning for a delayed start date, there is a risk there are gaps in accountability, resulting in reputational damage".

Issues Associated with Transition

15. The issues associated with transition are directly related to the vesting of Public Health Scotland later than anticipated in 2019 and the need to ensure NHS Health Scotland maintains as a robust and experienced Board of governance as possible.

Promoting Fairness

16. The changes do not affect the way in which any of the NHS Health Scotland non-executive Board members have been appointed. This has followed a fair and standardised approach.

17. Board members will continue to be subject to current standards of governance and require to adhere to the Code of Conduct.

Sustainability and Environmental Management

18. There are no specific sustainability and environmental management issues.

Action/ Recommendations

19. The Board are asked to note this paper.

Della Thomas

Executive and Governance Lead

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