

# **Code of Conduct for CQC Board Members**

**Revised August 2018**

## **Code of Conduct for CQC Board Members**

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## **1. INTRODUCTION**

- 1.1 The Code of Conduct for Board Members of the Care Quality Commission (CQC) forms part of CQC's framework of governance documents that set out how CQC regulates its day to day business. Other documents include the Corporate Governance Framework, the Board Standing Orders, the Scheme of Delegation, Standing Financial Instructions and terms of reference for the Board's Committees.
- 1.2 CQC's Code of Conduct for Board Members provides guidance on the responsibilities and standards of conduct expected of all Board members and those Independent members who sit on the Board's committees and sub-committees. Board Members and Independent Members must subscribe to this Code of Conduct and comply with it in all their duties.
- 1.3 From time to time, the Board may adopt protocols on particular issues which will form an annex to this Code. For example, the protocol on Board meetings in public is attached as Annex C and the protocol governing how persons supporting CQC Board Members will function is Annex D.
- 1.3 This Code of Conduct for CQC Board Members is additional to the Cabinet Office's Code of Conduct for Board Members of Public Bodies (June 2011), a copy of which is issued to all Board Members on appointment.
- 1.4 A separate policy sets out the standards of conduct expected from CQC's employees.

## **2 THE ROLE OF THE CQC CHAIR**

- 2.1 The Chair is responsible for providing effective strategic leadership to the Board. The role of the Chair is set out in the Department of Health and Social Care (DHSC) Framework Agreement and in CQC's Corporate Governance Framework.
- 2.2 The Chair has particular responsibilities in relation to oversight of the Board's Code of Conduct including:
- encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout the whole of CQC;
  - ensuring that in reaching decisions, the Board takes proper account of guidance provided by Ministers and the sponsor department and the Board's advisory Committees;
  - representing the views of the Board to the general public;

- undertaking an annual assessment of each Board Member's performance on the Board and overseeing a review of the Board's effectiveness; and
  - providing an assessment of the performance of individual Board members, on request, when they are being considered for re-appointment to the Board or for appointment to the Board of some other public body.
- 2.3 The Chair must ensure that the Board meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Board members, as well as the Board as a whole. The Chair has an important role in enabling all Board Members to make a contribution to the Board's discussions.
- 2.4 The Chair must ensure that all Board Members, on taking up office, participate in a suitable induction programme so that they are fully briefed on the terms of their appointment and on their duties, rights and responsibilities.
- 2.5 The following documents will be made available to all Members of the Board, including the Chair:
- the Cabinet Office's Code of Conduct for Board Members of Public Bodies and the CQC Code of Conduct for Board Members, including the Member's Role Description;
  - Governance information including the CQC Corporate Governance Framework which includes CQC's statutory basis of operation; the Board Standing Orders; terms of reference for Board Committees, the Scheme of Delegation; Standing Financial Instructions; and the DHSC Framework Agreement.
  - CQC's latest Strategic and Business Plans and Annual Reports and Accounts, organisational chart and other relevant background material.
- 3. CORPORATE RESPONSIBILITIES OF BOARD MEMBERS**
- 3.1 The role description for Board Members is set out at in the attached Annex B and summarised separately in the Corporate Governance Framework and in the role description.
- 3.2 The Board provides strategic direction and leadership to CQC. Together with the Chair, all Board members, whether Non-Executive or Executive, share the corporate responsibility for the decisions of the Board and for the performance of CQC. Once the Board has taken a decision, it is the responsibility of all Members of the Board to support

that decision. All Board Members have collective and corporate responsibility for ensuring that CQC complies with any statutory or administrative requirements for the use of public funds.

3.3 Board members play an important role in leading CQC. All Members of the Board are expected to set an example to CQC and support staff by modelling the CQC values through their conduct and behaviour.

3.4 The corporate responsibilities of Board Members in relation to the Code of Conduct include:

- Ensuring that high standards of corporate governance are observed by the Board at all times;
- Establishing the overall strategic direction of the organisation within the framework of policy and resources agreed with the responsible Minister and securing the long-term sustainability of the organisation;
- Ensuring that CQC operates within the limits of its statutory authority and any delegated authority agreed with the Department of Health, and in accordance with any other conditions relating to the use of public funds;
- Ensuring that, in reaching decisions, the Board has considered any guidance issued by the Department of Health and Social Care;
- Ensuring that CQC complies with any duties imposed on public bodies by statute, including without limitation obligations under health and safety legislation, the Human Rights Act 1998, the Disability Discrimination Act 2005, the Race Relations (Amendment) Act 2000, the Data Protection Act 2018, the Freedom of Information Act 2000 and the General Data Protection Regulation (GDPR) which came into force on 25 May 2018; and
- Ensuring that CQC has specific responsibility for sustainable development and operates within the framework of the Department of Health's environmental policies.

3.5 Board Members have a collective duty to ensure that their decision-making processes are transparent. Even if the decision is made in private, there needs to be public transparency of the underlying arguments and logic which resulted in a decision being made. Each Board Member has a personal responsibility to ensure that they have sufficient understanding and information to participate in the decisions that are made by the Board.

- 3.6 The following guidance for Board Members is intended to ensure that CQC Board meetings are well conducted and that informed and well-considered decisions are taken. CQC Board Members should:
- take account of the views of others, but should reach their own conclusions on the issues before them and act in accordance with those conclusions;
  - be as open as possible about their actions and decisions, being prepared to give reasons for their actions and willing for their decisions and actions to be scrutinised and challenged in a constructive way;
  - allow everyone to take part without interruption or intimidation, respecting the contribution of other Members and not interrupt when someone is speaking;
  - respect the impartiality and integrity of CQC's other Board Members, never being derogatory in their speech or manner. Members should not use language which could be construed as discriminatory or offensive to others and avoid using heated, emotional and value loaded language and behaviour;
  - allow conversation to move forward, not looking back at past discussion, sticking to the point under discussion;
  - not attempt to dominate the meetings for their own purpose;
  - set mobile phones to silent or vibrate and notify the Chair of the meeting before it begins, if they are expecting an urgent call and are likely to have to leave the meeting;
  - not respond to emails during the meeting.
- 3.7 The CQC Board has agreed that its meetings in public should be recorded and the recording made available on the CQC website. This will make the Board's proceedings more accessible and will promote the transparency and openness of CQC. A protocol for Board meetings in public has been adopted and is appended at Annex C to help the CQC Chair, Board members and staff supporting Board meetings to ensure that business is conducted efficiently and professionally.

#### **4 RESPONSIBILITIES OF BOARD MEMBERS AS INDIVIDUALS**

- 4.1. Individual Board Members must be aware of their wider responsibilities to the general public. Like others who serve the public, they must follow the *Seven Principles of Public Life* set out by the Committee on Standards in Public Life, appended at Annex A.
- 4.2. The Standards impose a number of duties on Board Members.

- **Duty to act in the public interest**

- 4.3 All Board Members must act in good faith and in the best interests of CQC. They should play a full and active role in the Board and not use their position to promote their personal interests or those of any connected person, firm or organisation.
- 4.4 Board Members are expected to be, and seen to be, politically impartial. They should be even-handed in all dealings with political parties and should not make political statements or engage in political activity related to CQC's role or activity.
- 4.5 Board Members may engage in political activity, subject to the following rules, but must at all times remember their responsibilities as a Board Member. Board Members must not occupy a paid party-political post or hold a particularly sensitive or high-profile role in a political party. They should abstain from all controversial political activity and comply with Cabinet Office Rules on attendance at Party Conferences.

- **Duty to act within CQC's powers**

- 4.6 Board Members are responsible for ensuring that CQC does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure. If a Board Member requires clarification as to whether a proposal is within the legal powers of CQC, the Chief Executive and CQC's legal advisers can provide that clarification.

- **Duty to preserve confidentiality**

- 4.7 Members of the Board may occasionally receive information which is not in the public domain, often relating to individuals, organisations or commercial-in-confidence matters. It is the responsibility of each individual Member to ensure that this information remains confidential to the meeting, unless prior authorisation has been given by the Chair for this to be discussed elsewhere. This duty of confidentiality continues to apply after Members have left the Board.
- 4.8 Individual Board Members must never use confidential information for their personal advantage or the advantage or disadvantage of anyone known to them or to disadvantage or discredit the Board.

- **Duty to promote equality, diversity and human rights**

- 4.9 All Board Members are under a duty to promote equality, diversity and human rights and not discriminate unlawfully against any person, treating all people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

- **Duty to safeguard public funds**

- 4.10 Board members have a duty to ensure the safeguarding of public funds - which for this purpose must be taken to include all forms of receipts from fees, charges and other sources - and the proper custody of assets which have been publicly funded.
- 4.11 They must take appropriate measures to ensure that CQC at all times conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to relevant guidance in *Managing Public Money*.
- 4.12 Members must not misuse official resources for personal gain or for political purposes. It will always be an improper use of public funds for public bodies to employ consultants or other companies in order to lobby Parliament, Government or political parties.
- **Duty not to accept benefits from third parties**
- 4.13 Board members must not accept any **gifts or hospitality** which might appear to compromise their personal judgement or integrity or place them under an improper obligation. Board Members should familiarise themselves with CQC's Gifts and Hospitality Policy.
- 4.14 No inducement of any amount or value may be accepted under any circumstance. Any overt or covert offer of any inducement (of whatever value) for some action pertaining to a contract with an external third party individual or organisation, or concerning a future decision of the Board must be referred to the Chair of the Board, the Chief Executive and to the Head of Governance and Private Office.
- 4.15 Board Members must treat with caution any offer of a gift or favour or any exceptionally generous hospitality that is made to them personally. All gifts and hospitality accepted or offered and declined which are above the minimal levels specified in the Gifts and Hospitality Policy should be recorded using the form attached to the Gifts and Hospitality Policy.
- 4.16 All Board Members declarations on gifts and hospitality are published on the CQC website.
- 4.17 Board Members must comply with the rules set by CQC in its Travel and Subsistence Policy regarding remuneration, allowances and expenses.
- **Duty to register interests**
- 4.18 CQC Board Members must ensure that conflicts do not arise, or appear to arise, between their public duties and their private interests, whether these are financial or not. It is the personal responsibility of all Board Members to declare any personal or business interests which may or may reasonably appear to conflict with their responsibilities.

- 4.19 At the start of each financial year, the Head of Governance and Private Office will ask each Board Member to update their Register of Interests. Board Members are also expected to declare an interest at the start of a meeting or at the very latest the start of the agenda item to which the interest arises. Reference should be made to the Board Declaration of Interests policy, where detailed information on declaring and registering interests can be found.
- 4.20 Board members will be asked by the Chair to remove themselves from the discussion or determination of matters in which they have a financial interest. In matters in which they have a non-financial interest, Board Members should not participate in the discussion or decision on a matter where the interest might suggest that the Board was biased.
- 4.21 All Board Member interests will be published on the CQC website.

**5. MEDIA, PUBLIC SPEAKING AND USING SOCIAL MEDIA (To be read in conjunction with CQC's Social Media Policy – approved by Board, November 2016)**

- 5.1 Board Members' engagement with the media and the public should be based on the core principles of integrity, competence and confidentiality. It is important that public statements accurately reflect CQC's policies and practices and do not compromise or threaten CQC's reputation as an independent and effective regulator of health and social care services.
- **Official Spokespeople for CQC**
- 5.2 The Chair and the Chief Executive of CQC will account for CQC's business to Parliament when required. They are also the official spokespersons for CQC and are supported in their roles by the CQC Media Team. The Chief Inspectors will normally be the spokesperson for their area.
- **Communications with Ministers and Department of Health and Social Care**
- 5.3 Communications between Board Members and Ministers will normally be through the Chair, except where the Board has agreed that an individual Member will act on its behalf.
- 5.4 The main point of contact between CQC and the Department of Health and Social Care on day-to-day matters will normally be the Chief Executive.
- **Speaking to the Media**
- 5.5 The CQC Chair has specific responsibility for explaining the Board's views to the media.
- 5.6 From time to time, Board Members may be asked by the Chair to speak to the media on behalf of CQC. Before doing so, Board

Members should discuss with the CQC Media Team what the agreed response should be and confine their comments to the matters discussed with the Media Team.

- 5.6 When engaging with the media, Board Members should
- Communicate a clear message which has been agreed by the Chair and the CQC Media Team;
  - Speak only on matters that fall within the remit of the Board;
  - Take account of the Board's responsibility for leading and setting an example to the organization;
  - Acknowledge that, once taken, decisions of the Board are corporate decisions and it is the responsibility of all Board Members to support those decisions;
  - Consider their obligations for ensuring confidentiality including of personal information.
- 5.7 Board Members may be approached directly by the media by phone, email or in person. Board Members must not commit to media interviews as representatives of CQC without first consulting and gaining the approval of the Chair to speak on behalf of CQC. If a Board Member receives a request for an interview or comment from the media, they should simply confirm that they or an appropriate person will respond within an agreed timescale. The CQC Media Team will give advice on who is best placed to respond to the query.
- 5.8 As a general rule, Board Members are expected to inform the CQC Media Team:
- if they are approached by a member of the press, giving details of the journalist, media outlet concerned, nature of the enquiry and their response;
  - if they are involved in any activity, which might generate media activity relating to CQC.
- 5.9 Equally, the CQC Media Team will ensure that Board Members are:
- when possible, alerted about negative or controversial media coverage prior to the event;
  - regularly up-dated about proactive and reactive media activity;
  - briefed if they are asked to become involved in media activity.
- **Public Speaking Engagements**
- 5.10 Board Members are required to inform the Chair of the Board of any engagements they have to speak in public on any subject which relates to the work of CQC. If appropriate, the CQC Media Team will arrange for briefing for the Board Member. Board Members must always make

explicit those occasions when they are speaking as an official representative of CQC and when they are expressing their own personal views.

- **Use of Social Media**

- 5.11 CQC's Social Media policy (approved by Board, November 2016) provides principles and guidance on using and engaging with social media.

## **6 PERSONAL LIABILITY OF BOARD MEMBERS**

- 6.1 The Board takes decisions as the governing body of CQC. In most instances, even if a decision of the Board is open to criticism, an individual Board Member, although potentially liable, will be indemnified for any action against their actions. This indemnification is removed if the Board Member can be proved to have acted recklessly or negligently.
- 6.2 Although any legal proceedings initiated by a third party are likely to be brought against the Board, in exceptional cases proceedings (civil or, in certain cases, criminal) could be brought against the Chair or individual Board Members.
- 6.3 If a Board Member behaves recklessly or commits a criminal offence in fulfilling their duties, they may hold a personal liability (e.g. Health and Safety legislation, Data Protection Act etc).
- A liability in 'contract' will arise if the Board Member enters into a contract in their personal name, or if the Board Member is found to be acting *ultra vires*, whilst being presumed to act with power and authority on behalf of CQC. This might also apply if the Board Member is found to have accidentally or deliberately misrepresented their authority.
  - A liability in 'tort' could arise for a Board Member for negligence, defamation or harassment, although it would be normal for such a claim to initially be made against CQC.
- 6.4 Board Members can seek legal advice in confidence from CQC's legal advisers as to whether any course of action they are considering is likely to be indemnified

## **7. HOW BOARD MEMBERS RAISE CONCERNS**

- 7.1 Given that Board Members have collective responsibility for decisions taken by the Board, it is important that all Board Members play a full and active part in the Board's deliberations and use the opportunity to ensure that their views are heard before the Board takes a formal decision.

7.2 Board Members are expected to be supportive of CQC and to use their best endeavours to promote the success of the organisation. On occasion, Board Members may have concerns which they wish to raise. For example, a Board Member may be concerned that the Board is not conducting its business properly; that there has been a very serious breach or illegality at the Commission; or have a more personal concern about the way in which they are treated by the Chair or another Member of the Board.

- **Disagreement with a Board decision or process**

7.3 The Board's Standing Orders set out how a Board Member can ensure that an issue they believe to be important is included on the Board's agenda for discussion or a concern about a Board process can be raised. Members can put forward specific agenda items, raise matters under Any Other Business or propose a resolution for debate.

7.4 If a Board Member is not in agreement with the general view of the majority of the Board on a matter of substance, the Board will continue to debate the issue, including revisiting the issue over a period of time in order to seek to resolve the issue and achieve a consensus. If, eventually, a unanimous position cannot be achieved, the Board may decide to pass a resolution expressing the majority view but also ensuring the minority view is noted in the minutes. While the individual Board Member may continue to argue their view point internally, they are expected to support the decision of the Board externally, even where they have personal reservations.

7.5 A Board Member who feels unable to do so may need to consider whether they are able to continue as a Board member.

- **A personal concern or grievance**

7.6 A Board Member who wishes to express a concern about the behaviour of another Board Member should in the first instance raise the issue with the Chair of the Board. If the concern involves the Chair of the Board, the Board Member should raise the matter with the Senior Non-Executive Board Member; or with the Chief Executive.

7.7 The following process should be followed where possible:

- An initial informal discussion held with the Chair (or Senior Non-Executive Board Member or Chief Executive) to scope the nature of the concern and gain agreement as to the next steps. For example, it might be appropriate to have an informal discussion with all Board Members at a specially convened workshop; or to proceed to a more formal meeting between the aggrieved Member and the person causing the concern.

- A more formal meeting attended by both sides to the grievance and facilitated by the Chair or the Senior Non-Executive Member (whichever is appropriate). Both parties can be accompanied by a colleague or a friend but not by a legal adviser. If legal advice is needed, it will be provided by CQC's legal advisers. A note of the meeting should be taken including any agreed resolution.
- An appeal to Secretary of State if the Member remains aggrieved. Cabinet Office guidance recommends that in such cases the agreement of the rest of the Board should normally be sought. The Secretary of State may ask the Sponsor Department or the Permanent Secretary in the first instance to discuss the issues of concern with the Board Member. They are then in a position to facilitate the meeting between the Secretary of State and the Board Member.

- **Very serious wrong-doing**

7.9 In the situation where a Board Member has reason to believe that a very serious wrong-doing has taken or is taking place, they should raise this immediately with the Chair or the Chief Executive to seek a resolution of their concern. The Chair or Chief Executive will agree with the Board Member how the matter should be investigated and make appropriate arrangements so to do. The matter should be explored using internal processes wherever possible.

7.10 In certain circumstances, a Board Member may decide to make a protected disclosure to a body outside the CQC. The Commission's legal advice (which has not been tested in a court of law) is that Board Members as public office holders are covered by the Public Interest Disclosure Act 1998 as contained in Part IVA of the Employment Rights Act 1996. The provisions of the Act apply to Board Members as follows:

- The matter to be disclosed should, in the reasonable belief of the Board Member making the disclosure, tend to show one or more of the following:
  - a) That a criminal offence has been committed, is being committed or is likely to be committed
  - b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
  - c) That a miscarriage of justice has occurred, is occurring or is likely to occur
  - d) That the health or safety of any individual has been, is being or is likely to be endangered
  - e) That the environment has been, is being, or is likely to be damaged, or
  - f) That information tending to show any matter falling within any one of the preceding paragraphs has been, is being, or is likely to be deliberately concealed.

- The Board Member making the disclosure has attempted to have the issue resolved internally and failed; or if they have not done so, there are very sound reasons (such as the threat of reprisals or that the evidence would be buried) as to why they have not.
- The disclosure should be made to the appropriate regulatory authority. This could be the Secretary of State for Health; or the relevant regulators e.g. the Health and Safety Executive for health and safety concerns, the Environment Agency for environmental concerns, the Information Commissioner for issues relating to data protection and freedom of information, and the Controller and Auditor General of the National Audit Office for fraud and corruption (see [www.pcaw.org.uk/law](http://www.pcaw.org.uk/law) for a list of the prescribed regulators).

7.10 Board Members expect that any Board colleague who decides to make a disclosure to an outside body would have made every attempt to resolve the matter internally through the proper channels; and would certainly have informed all Board Members of their intention to proceed in this way

## **8 FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

- 8.1 If any Member fails to perform the duties required of them or display the standards of conduct expected of them, they may be judged as failing to carry out the duties of their office. This could lead to them being removed from the Board.
- 8.2 Failure to observe the requirements set out in this Code of Conduct for Board members would be a breach of the Board Standing Orders and could in the event of allegations of fraud and/or corruption, leave the Board member involved open to criminal proceedings under the Prevention of Corruption Acts, as well as other civil and criminal penalties.
- 8.3 In cases where it appears that a Member has acted or omitted to act in such a way as to constitute a breach of the Board Standing Orders or a breach of this Code, the Chair of the Board will undertake an investigation and depending on the findings of the investigation, may refer the case to the Secretary of State for consideration of further action. In the case when the Member concerned is the Chair of the Board, the investigation will be undertaken by the Chair of the Audit and Corporate Governance Committee.
- 8.4 Any questions about the Code of Conduct for Board Members or the Board Standing Orders should be directed to the Head of Governance in the first instance.

## **9 REVIEW**

9.1 This Code of Conduct will be reviewed periodically by the Board.

**Revised August 2018**

## ANNEX A – Seven principles of public life

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **ANNEX B**

### **Role description - Board Members of the Care Quality Commission**

The role description for CQC Board Members that has been developed takes account of the HM Treasury and Cabinet Office guidance on corporate governance in central government departments.

All non-Executive Board members are appointed by the Secretary of State. The Board consists of a Chair and up to fourteen Members, the majority of whom are non-Executive Members. The Secretary of State has appointed the Chief Executive as an Executive Member of the Board. Non-Executive Board members appoint Executive Directors to the Board, including the Chief Inspector of Hospitals, Chief Inspector of Adult Social Care and Chief Inspector of General Practice.

### **Responsibilities of Members of the Board**

The role of the Board is to provide strategic direction and leadership to CQC, ensuring that it is effective as the independent regulator and is sustainable in the longer term.

The specific responsibilities of all Board Members are to:

- contribute to the development of CQC's strategy in the best interests of users of health and social care services and approve the CQC strategic plan;
- agree the objectives, priorities and corporate plans of CQC and ensure that the Board's decisions are implemented;
- monitor and review CQC's performance in meeting its objectives and holding the Chief Executive to account for CQC's performance and for the proper running of CQC;
- ensure that CQC's financial controls and systems of risk management are robust and effective in order to maintain CQC's financial viability;
- set and address the culture, values and behaviours of the organisation
- appoint the Chief Executive and agree the remuneration of Executive Directors;
- determine which decisions the Board will make and which it will delegate to the Executive Team via the Scheme of Delegation;
- take high level policy and organisational design decisions where these will characterise the type of regulator and monitoring body CQC will be or will be perceived to be;
- ensure probity in the conduct of CQC's business and use of resources
- ensure CQC's compliance with the requirements of CQC's standards; the standards of external agencies, and legislation including health and safety and information governance;
- serve on Board Committees if required;
- act as an ambassador for the Commission.

In discharging their responsibilities, all Board Members are expected to

- make decisions transparently;
- participate fully in the work of the Board and support the Board's decisions taken collectively;
- comply with the Members' code of conduct including the Seven Principles of Public Life and maintain the highest standards of conduct and ethics;
- act in the best interests of CQC and promote its success as an independent and effective regulator.

No individual or group of individuals should be able to dominate the Board's decision-taking. While all Board Members have an equal share in decision-making and are required to discharge the same responsibilities in the best interests of CQC, they are likely to play different roles on the Board and in the decision-making process, depending on whether they are Executive or non-Executive Board Members.

**Non-Executive Members** of the Board are recruited on the basis of their wider expertise and experience and are not part of CQC's management. Because they are independent of CQC's management and are free from any relationship (business or otherwise) which might interfere with the exercise of independent judgement, the Non-Executive Members particularly bring:

- Impartiality and objectivity;
- Wide experience and a clear view of the external factors affecting CQC and the environment in which it operates;
- Specialist knowledge;
- Personal qualities.

There should be a majority of non-Executives on the Board to ensure their views carry significant weight in the Board's discussions and decisions. The Non-Executive Board Members can make a particular contribution to the Board, for example in:

- Culture and values – actively promoting a positive culture in CQC to demonstrate accountability, display integrity, act inclusively and take pride in CQC, and reflecting the CQC values in their own behaviour;
- Setting strategic direction -- by bringing their independence, their external skills and perspectives, they can make a creative and informed contribution to the development of strategy and provide constructive challenge of the objectives and plans developed by the Chief Executive and his team;
- Improving performance – ensuring that challenging objectives are set, scrutinising the performance of the Executive in meeting CQC's objectives and how performance is reported to the Board, and ensuring that the Board's decisions are properly implemented;

- Managing Performance and Risk – satisfying themselves of the integrity of information and that systems of control are robust and defensible
- Independence – ensuring appropriate independence in the Board’s regulatory decision-making
- Building strategic partnerships – by drawing on their networks and communication skills, assisting CQC to build strong partnerships with its stakeholders and others
- Accountability – ensuring that the Board acts in the best interests of the users of health and social care services and communicates clearly and accurately with Parliament, stakeholders and the public; ensuring that one of the Non-Executive Members of the Board acts as a safe point of access for whistle-blowers
- Supporting and challenging the Executive Team – advising on appointment and removal of the Chief Executive; and as part of the remuneration committee, determining appropriate levels of reward throughout the organisation.

As an **Executive Member of the Board**, the Chief Executive has specific responsibilities as Accounting Officer and makes a specific contribution to the Board in setting strategy, setting values, monitoring the organisation’s performance and addressing people issues. In addition, he brings his detailed knowledge of the organisation and his specialist knowledge to the debates and discussions of the Board, particularly ensuring that all Board Members have a full understanding of all the factors operating in a particular situation before the Board reaches a decision. The Chief Executive is excluded from the Board’s decisions relating to his appointment and remuneration and on his departure, is excluded from any involvement in selecting a new Chief Executive.

#### **Essential criteria for Board Members**

- Senior level expertise and experience in one or more of the following areas:
  - Governance and finance – Board level financial and governance experience preferably with a financial qualification
  - Healthcare
  - Mental health
  - Social care
  - User involvement and understanding of the perspective of service users
  - Law including information governance
  - Change management
  - Regulation
  - Communications and marketing

- A significant record of achievement in his or her chosen field;
- Proven ability to contribute as an individual and collectively to the work of the board;
- The ability to address high profile, complex and sensitive issues in a way which represents individual and wider public feeling;
- An understanding of diversity issues, equal opportunities and human rights issues and a commitment to applying these principles to the work of the Commission.

Independent Committee Members, who may be appointed to Committees of the Board to provide advice and expertise to the Committee by virtue of their experience and skills, are also expected to comply with the expectations and standards of behaviour required of Board Members.

## **ANNEX C**

### **Protocol for Board meetings in public**

#### **Introduction**

Recording of the Board's meetings in public to be made available via the CQC website will make the Board's proceedings more accessible and help promote the transparency and openness of CQC. However it will also permit increased scrutiny of the Board and staff conduct during proceedings. This protocol is designed to help the CQC Chair, Board members and staff supporting Board meetings to ensure that business is conducted efficiently and professionally.

#### **1. In advance of the meeting day**

##### Declarations of interest

Declarations of interest should be made in accordance with the Declarations of Interest policy for CQC Board members (approved by Board in April 2015).

##### Minutes / Action log

It would be helpful for the Chair (via the Secretariat) to receive details of any proposed amendments or corrections to the minutes or notice of any questions about the Action Log three working days in advance of the meeting. This will help ensure that the Chair can give these due consideration and resolve any issues arising in advance of the meeting and ensure that further updates or additional details can be supplied at the meeting in answer to those questions.

##### Seating plan

The Chair will determine the seating plan for each meeting. This is provided to those recording the meeting and they will use it to help identify speakers during proceedings. Board members are requested therefore not alter the seating arrangements.

##### Media and social media

Attendees are reminded that the CQC's media and social media policies apply before, during and after Board proceedings.

#### **2. On the day in advance of the meeting**

##### Nameplates

Nameplates will be positioned so as to ensure that speakers can readily be identified on screen. Attendees are asked not to move nameplates. Designated places will be provided at the table for presenters joining the meeting to present items.

#### **3. During the meeting**

##### Legal considerations

As the proceedings are being recorded for subsequent viewing it is important that Board members and other speakers ensure that in making their contributions they exercise care regarding to:

- Reference to any matters which are sub-judice or subject to enforcement action;
- Reference to confidential personal information about identifiable individuals;
- Criticism – overt or implied - about named or identifiable individuals;
- Notes written or passed during meetings; these are subject to Freedom of Information requests and therefore should be avoided.

For the purposes of CQC governance the agreed formal minutes of the meeting will form the official record of proceedings and decisions taken. A recording of the meeting will be made available to view via the CQC website. This will usually be within 48 hours of the meeting taking place. In the unlikely event of any dispute or legal proceedings it is possible that both the formal minutes and the recording of the meeting would be taken into consideration.

#### Microphones

It will be particularly important that speakers use microphones when they are called to speak if their contributions are to be audible on the recording. It will be equally important that speakers switch their microphones off when not making a contribution: if left on they can cause interference to the webcast sound and prevent another speaker being heard properly; they can also pick up extraneous noise and side conversations and comments. To avoid any embarrassment attendees are strongly advised not make comments during proceedings that they would not be content to be broadcast.

#### Making contributions

It is important in any meetings but especially so in recorded proceedings to ensure that there is only one speaker making a contribution at any point otherwise viewers will find difficulty in following the discussion. Attendees will signal to the Chair when they wish to make a contribution; the Chair will then call upon attendees to speak.

To help viewers follow discussion, when speakers refer to or quote from papers they should refer to the relevant page and paragraph numbers. Side conversations are a discourtesy to the Chair and a distraction to others and are not permitted. However interactions between a speaker and any support person present are permitted, although these should be conducted discreetly, off microphone. (See 'Support persons' at Annex D).

#### Audience

The Chair will remind the audience at the commencement of each session that it is a meeting being held in public, but not a public meeting and therefore the audience is not permitted to contribute or ask questions during

proceedings. However, at the end of the meeting, if time permits, the chair may invite members of the public to ask a question or briefly address the board. Questions should be: addressed through the Chair; about matters under consideration or of current public interest; submitted to the Secretariat in advance, if about a specific matter, so that an answer can be provided.

Should there be an interruption the Chair will advise the audience that they are not permitted to participate during proceedings. Should interruptions continue the Chair will adjourn proceedings.

#### Adjournments

The Chair may choose to adjourn the meeting temporarily if they wish to obtain advice on either proceedings or matter that arises during proceedings.

#### Time- keeping

The Chair will be seeking to ensure that the meeting runs to time. Attendees therefore are asked to resume their seats promptly at the time requested, following breaks

#### Mobile phones, Blackberries, Tablets etc

Attendees should use tablet devices / laptops to refer to documents instead of using hard copy papers. Devices should be set to silent or vibrate and the Chair should be notified before the meeting, if a member is expecting an urgent call and are likely to have to leave the meeting.

Visitors may take written notes, but using mobile devices during a meeting is not allowed unless the board gives prior agreement.

#### Support persons

The protocol (see annex D) governing the role of any support persons for attendees will apply to proceedings. This is aimed at ensuring that views expressed, points made or questions asked are those of the Board member not the support person.

The support person will take no part in proceedings on their own behalf; however they will be permitted to articulate the points the Board member wishes expressed, if and when the Board member signals that they wish the person so to do. Any such points made will be recorded as those of the Board member in the minutes. If there is need for a vote, the vote will be cast by the Board member, not the support person.

#### Refreshments

Please be mindful that sundry food and drink at the meeting table can look untidy and unprofessional.

## **ANNEX D**

### **Protocol governing how persons supporting CQC Board members will function**

#### Application of the protocol

This protocol applies as and when Board members make use of persons to support them in discharging their responsibilities as a CQC Board member. This protocol is owned by the CQC Chair and may be varied by the Chair as required.

#### Guiding principles

The following constitute the guiding principles that will apply:

- The CQC Chair will determine what constitutes a reasonable adjustment which can be made. In doing so the Chair will take into account the needs stated by a Board member, and the needs of the Board to discharge its functions efficiently and effectively.
- The purpose of any support person is to enable a Board member to discharge their duties, not to discharge a member's duties for them.
- That at all times, and in all circumstances, it will be essential that it is understood that views expressed, points made or questions asked are those of the Board member not the support person. The Board member will be responsible for ensuring that this is achieved
- The persons supplying support will be expected to make their arrangements to fit with the programme of Board business. The unavailability of such a person for any reason will not constitute grounds to delay, cancel or postpone Board meetings or business.
- The support provided may be subject to review periodically by CQC to ensure that it remains appropriate.

#### Operating arrangements

The following are the default operating arrangements which will apply. Any support person or persons:

- Must sign a confidentiality agreement, the terms of which will be drawn up by CQC.
- Before acting in the role must be inducted by the Head of Governance and Private Office in the terms of this protocol and any other documentation and processes deemed appropriate by either the CQC Chair or the Head of Governance and Private Office.
- Will be permitted to read CQC private meeting papers (including Board and Remuneration Committee) in advance of meetings, but will not be

permitted to make other copies, or otherwise keep copies beyond the date of the meeting to which they apply or share papers with any other persons.

- When permitted to attend meetings of the Board (or its sub-committees), they will take no part in proceedings on their own behalf; however they will be permitted to articulate the points the Board member wishes expressed, if and when the member signals that they wish the person so to do. Any such points made will be recorded as those of the Board member in the minutes.
- If there is need for the Board (or its sub-committees) to vote on any issue, then for the avoidance of any doubt about whose vote is being cast, the vote must be cast by the Board member, not the support person.
- When dealing with business by correspondence, any responses must come back to CQC via the Board member.
- The support person will not be permitted to attend the Board member's appraisal meetings with the Chair (unless that specifically is identified as necessary in the assessment of needs).
- The support person, in their role, is not permitted to speak to the media, any external agencies or any providers regulated by CQC (either on their own behalf or on behalf of the Board member) without first receiving permission in writing from the CQC Chair, or the Chair's nominated representative for this purpose.
- Subject to the provisions above and CQC's provisions relating to information security, it shall be the responsibility of the Board member to supply the support person with such CQC documents and information as they judge necessary for their role.
- The Board member must ensure that, if the support person is present when the member is attending meetings (whether in person or via telephone or video-conference), that before the meeting begins the presence of the support person is drawn to the attention of others attending the meeting.
- Any written exchanges by the support person and the Board member will be subject to the provisions of the FOI Act when considering the response to requests received by CQC under the Act; however exemptions within the Act may apply.

- Where CQC is funding the support, the number of days of support provided in any given time period will be agreed in advance between the Board member and the Chair. The Head of Governance and Private Office will monitor this use.
- In assessing the reasonableness of daily cost of the support to the Board member to CQC, this will be judged in relation to the prevailing CQC Board member day rate.
- Only those travel and subsistence expenses incurred in directly supporting the Board member will be reimbursed. The CQC travel and expenses policy and code of conduct will apply. The CQC Head of Governance and Private Office will be responsible for approving such expenses.