

## How to guide

# How to involve the public as Board members

See the most recent version of this at <http://www.emahsn.org.uk/public-involvement>. This version 12 June 2018



Members of the public<sup>1</sup> who join the Board or governing body of a health or social care organisation can add focus, value and relevance<sup>2</sup>. The paragraphs below suggest how to make the most of these arrangements and create maximum benefit both for the Board and the public representatives.

This document was drafted by Peter Bates following some discussions at a meeting<sup>3</sup> hosted by the [East Midlands Academic Health Science Network](http://www.emahsn.org.uk) as part of its work on Public Leadership. Its purpose is to bring together the experience of people across the region and encourage the whole health and social care community in the East Midlands to make progress in this area. As readers provide feedback, further insights will be used to update the paper. Please contact [shahnaz.aziz@nottingham.ac.uk](mailto:shahnaz.aziz@nottingham.ac.uk) to suggest improvements or tell us how you have made use of this paper.

<sup>1</sup> In this document, the term 'public contributor' or 'public member' of the Board includes people that others may call patients, clients, service users, carers and other interested citizens. Some boards invite officials from third sector patient organisations to take the role of Public member, but this is a contested practice.

<sup>2</sup> Health Service Journal (2013) *Why lay members must be at the heart of the NHS*. Available [here](#). Also Health Education North East (undated) *Lay representatives role on Boards and Committees*. Available [here](#).

<sup>3</sup> The following people attended the meeting on 28 April 2014: Zenn Athar, Peter Bates, Mark Howells, Anthony Locke, Leslie MacDonald, Yvonne Pearson, Derek Stewart, Glen Swanwick, Dave Waldram, Sue Wilkinson. This group and the following people kindly commented on versions of this document: Dave Ardron, Baz Hartnell and Mary Ledgard.

**Seek advice from experts.** Guidance<sup>4</sup> and research<sup>5</sup> is available on how to run an effective Board. In addition, advice is available on the following specific aspects:

- how to recruit lay members to the Board of a Clinical Commissioning Group<sup>6</sup>
- advice for potential governors<sup>7</sup> of Foundation Trusts
- the statutory duties of Foundation Trust governors<sup>8</sup>.
- engaging people in research funding boards<sup>9</sup>.
- Guidance for chairs when involving the public<sup>10</sup>.
- How to avoid conflicts of interest when a Trustee also uses the service<sup>11</sup>.

## Develop an effective Board

There are certain conditions that enhance the effectiveness of all Boards, whether or not public contributors are involved. If you are experiencing difficulty in recruiting, retaining or engaging public members, this may be a visible sign that all is not well with the general health of the Board. So make sure you have the following:

- A spread of members that reflect the diversity of the community that is served by the organisation, rather than just white, middle aged professionals. Think about how the Board will benefit from and harness each member's wider interests and relationships beyond this particular Board.
- A clear purpose and role for the Board that everyone understands. This will be derived from the legal underpinning of the Board and the formal

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<sup>4</sup> See, for example, Cochran AC (2004) *Roberta's Rules of Order: Sail Through Meetings for Stellar Results Without the Gavel* San Francisco: Jossey-Bass. Available [here](#). Also Nonprofit Alliance (undated) *Board Chair and Board Member Best Practice Packet*. Available [here](#).

<sup>5</sup> Bhagat C & Kehoe C (2014) *High performing boards – What's on their agenda?* Available [here](#).

<sup>6</sup> NHS England (2014) *Best practice toolkit for the appointment of lay members to CCGs*. Available [here](#).

<sup>7</sup> Foundation Trust Network (2013) *So you are thinking about becoming a governor*. Available [here](#).

<sup>8</sup> Foundation Trust Network (2014) *Your statutory duties: a guide for governors*. Available [here](#).

<sup>9</sup> INVOLVE (2012) Tips sheet: Recruiting members of the public to get involved in research funding and commissioning processes. NIHR Involve. Available [here](#).

<sup>10</sup> <http://www.twocanassociates.co.uk/wordpress/wp-content/uploads/2013/09/GuidanceForChairs-16-2-10.pdf>

<sup>11</sup> See the advice from the Charities Commission [here](#).

responsibilities of Board members, the expectations of funders and its terms of reference. The range and complexity of responsibilities of the Board will also help to shape the person specification of its members. It should be reviewed from time to time to check that it is working well and meeting its objectives. The role of the Board should include decision-making so that the Board is not merely decorative, like theatre where the illusion of participative decision making is created and the real decisions are in fact made elsewhere.

- A clear role (set out in role description) for each member of the Board, including public representatives, so that everyone knows why they and everyone else is there and how they can add value to the Board<sup>12</sup>. This helps to combat tokenism by recruiting Board members for a specific purpose rather than simply for their status as public members. The contribution of all Board members will be appraised from time to time and their term of office will be specified.
- A clear set of expectations for Board members including attendance<sup>13</sup>, contribution, confidentiality<sup>14</sup>, reporting to and from non-Board members, and relationships within the Board itself. Public representatives need to know if they can add items to the agenda or give presentations. The Board has a legal obligation to make reasonable adjustments in the way it operates in anticipation of people attending as observers or Board members who may need large print, hearing loops, wheelchair access, interpreters or other help. It is the chairperson's responsibility to enable these adjustments to be made, rather than the public representative's job to press for them.
- A shared understanding about the desired culture of Board meetings –by offering documents in advance so people can arrive well-prepared, avoiding jargon that excludes people, welcoming newcomers, valuing everyone's ideas by attentive and respectful listening, using the time efficiently and yet tolerating failure and vulnerability<sup>15</sup>. Guest presenters

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<sup>12</sup> Public members are expected to be full, voting members of the Board. Other members of the public may be invited to observe, but this is not the role that is being described in this paper.

<sup>13</sup> Some public representatives may have caring responsibilities or healthcare issues that prevent them from attending as consistently as others, but in general, public representatives should have the same expectations regarding commitment and the same opportunity to substitute a colleague as other Board members.

<sup>14</sup> Whilst the Board as a whole has a duty to be as transparent as possible, its members have a duty of confidentiality where appropriate. This includes speech, online communications and the storage and disposal of documents.

<sup>15</sup> Nadler DA (2004) Building better boards *Harvard Business Review* Available [here](#).

who talk about patient experience can help the whole Board remember what the organisation aims to achieve. The culture will also be strengthened if all Board members are encouraged to share something of their personal experience, so that this kind of disclosure is not restricted to the public representatives<sup>16</sup>. Breaks in which people share food and drink provide an opportunity for relationships to be built, as well as using small groups or talking in pairs in addition to plenary discussions in the formal part of the meeting. Unusual contributions, such as drama or DVD, will help all Board members to expect the unexpected, and so value content and style of delivery that is outside the rigid framework of traditional business meetings.

- Public accountability is increased when Board meetings allow observers to attend and comment<sup>17</sup>. From time to time there will be a confidential topic on the agenda and so observers will need to step out of the room so that this section of the meeting can be conducted in private session. Robust mechanisms will be needed for identifying and addressing any conflict of interest. Minutes of meetings should be made public, perhaps by posting them on the organisation's website<sup>18</sup>. Conducting some Board meetings in a community venue may help to reach citizens who live nearby and use that facility.

### **Make this part of a wider involvement strategy**

Board membership on its own will not satisfy your organisation's entire need for public involvement, so make sure that you are involving people in other ways too<sup>19</sup>. Each Board member may have their own understanding of why

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<sup>16</sup> Baz Hartnell, who coaches many NHS Boards, presses members to be authentic in their relationships with one another – curious, listening, open, lonely, disappointing and assertive. See Hartnell B (undated) *The personal challenges of Board membership*. Available from [www.starr-performance.co.uk](http://www.starr-performance.co.uk).

<sup>17</sup> Such observers are not public members of the Board. We note that none of the Academic Health Science Networks held their Board meetings in public in 2015. As a contrasting example, the East of England CLAHRC has three public representatives on their Board (NIHR *Patient and Public Involvement and Engagement: NIHR CLAHRCs Annual Reports 2016/17*, p5).

<sup>18</sup> "Publication of summary minutes has been part of routine business for NIHR programmes managed by the NIHR Evaluation, Trials and Studies Coordinating Centre, since 2009 and the Department of Health has instructed the Central Commissioning Facility to follow suit. (Email from Janice Reynolds, Assistant Programme Manager (Research Information and Communications, NIHR, 26 June 2014.). The Board of NHS England video their Board meetings and upload them to the internet for public view – see <http://www.england.nhs.uk/category/board-meetings/>.

<sup>19</sup> NHS Leadership Academy (2013) *The healthy NHS board 2013 – principles for good governance*. Available [here](#).

public contributors are present and what they are expected to do, so clarify these matters and develop a shared understanding, perhaps writing this into the Terms of Reference. It is quite common for public contributors to have been on the Board of another organisation, and this may shape their expectations.

Consider whether part of the meeting time should be allocated to enable public members and observers to ask questions or make comments, although the need for this may diminish as the Board grows in confidence and the ability to draw one another out and listen carefully to member's views. These comments and questions may be subsequently published in the minutes of the meeting<sup>20</sup>. In addition, the organisation may wish to provide a summary of the key elements from the minutes in plain language and distribute this summary widely as well as making sure that the full minutes are also available on request.

### **Be clear about the skills that are needed**

Consider how potential public members match the following criteria, which should be specified in a role description so that candidates can be assessed and selected in a fair and transparent way:

- The personal life experience of the representatives, and its relationship to the issues being considered by the Board. For example, if a cancer survivor serves as a public contributor, it is helpful to be clear about their role. Are they using the position to campaign on behalf of cancer patients, or to improve all health services?
- The person's networks of connection to a wider group of experts by experience – people who live with the health condition, use the service, are relatives or friends of such individuals, or who represent an independent and external viewpoint. Some Boards choose to invite people who have no formal working relationship with others: these members may be limited to their own experience as opposed to also being able to contribute on behalf of their 'constituency'.
- Clarify the relationship between the Board member and this wider group – are they elected by the group and do they represent the group's views? Where there are several public members they may each represent a

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<sup>20</sup> Derbyshire Hospitals NHS Foundation Trust and Derbyshire Healthcare Foundation Trust follow this principle.



particular constituency, but one should always consider who is not present or whose voice is not being heard.

- The ability and confidence to ask simple but significant questions, to understand the deliberations of the Board and add value beyond a sectional interest; and to challenge in a constructive fashion in order to advance the objectives of the organisation. These skills may have been developed through prior membership of groups, committees or Boards.
- Sometimes a current or very recent recipient of the service is so preoccupied with their personal experience that they find it difficult to see beyond it, while in contrast, longstanding public representatives may have been socialised into the culture of the organisation and lost their ability to provide an independent view. A newcomer may benefit from connection with Healthwatch or a similar organisation that will provide access to other views and wider agendas. Some organisations set a minimum time between living through an experience and joining a Board, but others look for personal qualities rather than merely elapsed time.
- Public members are sometimes viewed as a 'soft target' by the media and may be repeatedly approached for interviews. The Board chair, chief operating officer and communications lead should work with public members to prepare for such approaches and ensure that media interaction demonstrates public involvement, people are suitably trained and the reputation of the organisation is upheld.

### Choose the right format

Sometimes the public contributors feel that they have a lower social status than other Board<sup>21</sup> members – they may be less salaried, educated or knowledgeable about some technical matters<sup>22</sup>. This may be because they have reduced access to information about the organisation in comparison to full time employees or other Board members. These differences can lead to the public contributor feeling hesitant or lacking confidence in Board meetings, so it can help to have an ally or to arrange a private briefing before

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<sup>21</sup> We will use the simple term 'Board' to include both formal Boards and governing bodies and any similar group that oversees the governance and direction of an organisation.

<sup>22</sup> As one example, we note that public members who have sat on a Board in the private sector often find themselves bewildered by the way that NHS finance works. A second example of a technical challenge that may leave public members bewildered is the need to keep abreast of the rapidly changing interface between health and social care.

the meeting. In response to this, many Boards invite two or more public representatives rather than one<sup>23</sup>, or make other arrangements<sup>24, 25</sup>. This also helps with covering absences. If one public contributor is more experienced, they can offer coaching and support to newcomers. Two people bring more varied experience too. For example, one contributor might have used the services provided by the organisation, while the other is not directly involved.

## **Start well**

Resist any suggestions that the Board should get established before introducing public contributors to the group. It is far easier to start well than to change things later on. Why not ask the public contributors to help in choosing which professionals should be invited to the first Board meeting, rather than the other way round? Election by the wider public may be seen as more legitimate than being self-appointed or handpicked by the Board chair. Alternatively, a clear and transparent recruitment process should be used to select the public contributors by comparison with explicit criteria.

The Chair of the Board should meet new Board members in order to form a personal connection that will facilitate engagement and constructive participation in the Board. There should be similar clarity about how people leave the role – either through fixed terms of office or the public contributor or the Board chair can end the appointment by giving the other one month's written notice, although the chairperson normally undertakes not to do this other than on reasonable grounds. Be clear from the outset about how and under what circumstances public contributors will be stood down from the Board, both if they fail to deliver as anticipated, and at the natural termination of office.

## **Provide development opportunities**

Public members may need some help to understand the purpose of the organisation or the way in which the Board operates. The Board as a whole

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<sup>23</sup> CLAHRC Greater Manchester and CLAHRC North West London did this.

<sup>24</sup> PenCLAHRC drew up to four public representatives from a group of 12 public representatives who shared an ongoing commitment and relationship with the organisation.

<sup>25</sup> For example, CLAHRC NDJ had a group of public representatives who together held two places on the Board. Representatives were chosen by the group and each person attended two consecutive meetings. Attendance was offset, so each meeting had one public representative present who had attended the previous Board meeting and another who would attend the next meeting.

may need help to create an accessible environment where everyone feels able to contribute, to abandon the use of jargon or find new ways to conduct its business. For new Boards, an informal introduction followed by an away day before the work starts can be a helpful process.

In addition, the Board may wish to develop particular ways of conducting its business that will need to be explained to newcomers and a number of members may need coaching in these skills. Consider obtaining external help such as an independent development consultant for the Board as a whole, or a mentor for the chairperson or public members. Do you ever ask the public member to chair a meeting or lead a Board event? Specialist training materials are available on Board membership, such as a training programme [here](#) for people with Learning Disabilities<sup>26</sup>.

### **Prepare for each meeting**

Some public representatives will wish to meet with one another, the group they represent or a supportive staff member before each Board meeting, although such an arrangement may be somewhat constrained by confidential papers and topics on the Board agenda. Here they can look at the agenda, plan their contributions and offer peer support to one another. The need for these pre-meetings may fade as participants grow in confidence.

### **The 'involvement' slot**

From time to time, the Board may ask for a specific report from the public members. More members of the public may wish to attend for this part of the meeting to deliver a presentation. Ensure that public members feel able to contribute to other parts of the meeting too.

### **Offer payment**

We expect that the exact reimbursement of receipted expenses will always be offered. Some Boards choose to offer a participation fee<sup>27</sup>, so that all

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<sup>26</sup> Learning Disabilities is a broad and wide ranging term. Other ways of involving those with Learning Disabilities are available [here](#).

<sup>27</sup> In 2012, the public representative on the Board at CLAHRC Cambridgeshire and Peterborough received £150 plus expenses for each Board meeting, compared to PenCLAHRC where public representatives received £25 per meeting, Principia CCG paid an honorarium and Lincolnshire Foundation Trust paid expenses only.



members receive financial recognition for their time and commitment. In deciding about this, the following issues need to be borne in mind:

- The legal arrangements for some organisations require a Board to be formed, and also specify remuneration arrangements. In some cases, Board members must be unpaid.
- People who pay tax or receive welfare benefits are generally obliged to report any funds received. It is important for all parties to consider that the effect of receiving the fee may:
  - lead to a reduced total net income rather than an increase
  - be interpreted as forming a contract of employment
  - be seen as implying that the person is fit to work.
- Actually getting the cash can be a slow process, so people who travel a long way or subsist on a very tight budget may find it inconvenient or prohibitive to wait so long to receive recompense for their outlay.

### **After each meeting**

Where the Board members have a distinct relationship with a wider group, they should report back to them after each meeting. This will need to be agreed with the chairperson, so that confidential matters are not inappropriately disclosed. It is helpful for the Board to produce a briefing directly after each meeting that shares the key messages, whilst allowing formal minutes to be ratified at the subsequent meeting and then published on the organisation's website. The briefing should show how the Board has responded to issues raised by the public members.

### **Alternatives**

For Boards that have hitherto run without public members, it may be difficult to encourage individuals to join the Board. This could be due to the organisation's weak uptake of the involvement agenda, or members of the public may feel that the role would put them under too much pressure<sup>28</sup>. Potential members may wish to see the coproduction policy as part of their recruitment pack of documents explaining the work of the Board. Some

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<sup>28</sup> A Board member of The Lenton Centre in Nottingham noted that those approached as Lay Representatives felt that becoming an official board member would be too much pressure.

newcomers might be helped by spending time as an observer prior to starting as a full member. In addition, public contributors may be invited to undertake specific projects and report to the Board<sup>29</sup> as guest presenters if they have the time and capacity to do so, as some public members have many competing responsibilities.

## Register the risks

Some of the hazards that can defeat the whole process include:

- Recruiting public members on to the Board may not be the most effective way to share decision-making across the whole organisation, and will certainly not achieve this goal on its own. Involving the public on the Board may be taken up as an alternative to a more wide-ranging approach to sharing power.
- Board discussions may lack radical challenge or practical detail – exactly the areas where some public members excel. The organisation needs to find ways of hearing and harnessing these less comfortable forms of feedback.
- The demands of participation at Board level may shut out a number of people, especially those who do not use the English language proficiently or like documents. The organisation needs to find ways of listening to these people too.
- The Board may fall into a two-tier arrangement in which the public member is expected to be no more than an observer, lacks voting rights or is ‘let off’ the responsibilities that are borne by other Board members. Whether this is explicit or is an unspoken assumption, it subverts the point of public contribution.

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<sup>29</sup> Kotecha N et al (2007) *A guide to user-focused monitoring* Sainsbury Centre for Mental Health. Available [here](#).