
CORPORATE GOVERNANCE

A Guide for LPCs



Second Edition April 2006

CORPORATE GOVERNANCE

A Guide for LPCs

Introduction

Local Pharmaceutical Committees (LPCs) are bodies recognised under NHS legislation with a duty to represent the NHS pharmacy contractors in the LPC area. The LPC is funded by the contractors it represents and is accountable to those contractors for the work that it does on their behalf and for the effective and economical use of LPC funds. High standards of corporate and personal conduct are a requirement for the LPC and its members and all aspects of the LPC's operations must be open to critical scrutiny.

To achieve these standards, rules and procedures need to be in place and that is what good governance is about: making sure the LPC is acting transparently, honestly and not in the self interest of its members. This is important if the LPC is to have credibility with others: much of the LPCs external dealings are with Primary Care Trusts (PCTs) which themselves have stringent requirements for good governance and will expect sound governance arrangements in the organisations they work with - such as LPCs.

It is good practice for LPCs to provide PCTs with a statement of the LPCs governance arrangements (see Appendix 1 below) – being seen to have good governance is as important as having the arrangements in place.

Principles of Good Governance

Corporate governance has been defined by the Audit Commission as:

'The system by which an organisation is directed and controlled in order to achieve its objectives and meet the necessary standards of accountability and probity'.

There is now an agreed and accepted set of principles for the foundation of a system of good governance and these are normally referred to as the Nolan principles. These principles were developed by Lord Nolan who, in 1995, chaired the Committee on Standards in Public Life. It was subsequently recommended that these principles should be incorporated into the codes of conduct of all public bodies.

The Nolan principles, as they apply to LPCs, are set out in **Appendix 1**.

It is good practice to put these principles on the agenda for an LPC meeting and to seek members' approval which should be clearly minuted. The date of acceptance can then be entered at the top of the document which can accompany all future meeting papers. It would be good practice to send a copy of this document to the PCT and post it on the LPC website. New members will be deemed to accept the principles but it would be good practice to ask new members to sign a copy to declare this.

Governance and the LPC Constitution

The LPC Constitution is a key document setting out the membership of the committee and the constitutional rules under which it operates. It needs to be approved by contractors and the PCTs from which the LPC is seeking recognition. Adherence to the constitution is a vital governance requirement and the constitution should be read and understood by all members and officers.

Most LPCs adopt the model constitution provided by the PSNC - some LPCs adopt variations on the model. Any changes to the constitution must be made in accordance with the terms of the constitution. An important point about the constitution is that it sets out the powers of the LPC and LPCs can only act within the powers that the constitution provides. An LPC must not go beyond its powers. So, for example, there is no power to use LPC funds other than for administrative expenses.

The constitution also gives explicit duties that bind the LPC such as the need to hold an AGM and provide services to contractors.

So before taking any non routine action LPCs should satisfy themselves that the committee has the power in the constitution to act in such a way; conversely the constitution should be examined to make sure the LPC is discharging properly the duties required under the constitution.

Governance in Practice

Declaration of Interests

As part of transparency and accountability, LPC members should complete a Declaration of Interests specifying sources of remuneration, names of companies or other bodies in which the member has an interest and other sources of interest or pecuniary support which are relevant or which may be relevant to membership of the LPC.

A model Declaration of Interests form is attached in **Appendix 2**.

The portfolio of Declarations of Interests should be openly available for inspection at LPC meetings. The Declarations of Interests should also be available to contractors on request.

Declarations of Interests should be regularly reviewed and updated on an ongoing basis. It is good practice to provide blank copies of the Declaration of Interests forms with the agenda for each meeting so that members can easily update their declaration when their circumstances change.

Conflict of Interest

There may be instances where an LPC member has a conflict of interest, for example, consideration of a contract application in which the member is personally involved. In such cases, there is a duty upon members to advise the Chairman of a possible conflict of interest. The Chairman is then required to deal with the conflict. Courses of action can range from simply prohibiting the member the right to vote on the issue, to not allowing the member to take part

in any discussion or asking the member to withdraw from the meeting whilst that matter is under consideration.

Clearly, members should not attempt to influence other members through canvassing or other activity prior to the meeting.

A small number of LPCs feel that there is a conflict of interest between LPC membership and employment by a Primary Care Trust, e.g. as a pharmaceutical advisor. The PSNC guidance is that it is a matter for individual LPCs and how they wish to govern themselves. It would be possible for an LPC to adopt a policy that, for example, the Chairman, Secretary or other officers of the Committee shall not be employed by or act as consultants to a PCT. However, such a policy must be framed reasonably and agreed by the LPC setting out in the minutes why the policy is being adopted.

Confidentiality

LPC members and in particular LPC Secretaries will, during the course of their work, produce or acquire commercially sensitive or otherwise confidential information.

Sometimes there is an apparent conflict between confidentiality and openness. Whilst LPCs should be open and transparent about the conduct of the Committee and its Members, some information can and should be kept confidential and covered by a Confidentiality Agreement. Information given to an LPC in confidence, commercial information, and sensitive personal information for instance may fall into that category. Not divulging such information does not break the Nolan principles, but careful judgement is sometimes required as to whether openness or confidentiality should take precedence.

As a matter of good governance, it is advisable that LPC Secretaries sign a Confidentiality Agreement. A model Confidentiality Agreement for LPC Secretaries is attached as **Appendix 3**.

For those LPCs who require all individual members of the LPC to sign a Confidentiality Agreement, a model is attached at **Appendix 3A**.

In both cases, the Confidentiality Agreement should be on LPC headed paper and allow for the member's signature.

Corporate Responsibility

During a debate on an issue at an LPC meeting, members are able to express their views freely and firmly. However, once a decision has been taken by the LPC then that decision is binding on all members irrespective of any counter views which may have been expressed during the debate.

Corporate responsibility means that individual members will publicly state only the LPC's collective view on an issue and, as an LPC member, will not say or do anything to undermine the LPC's position.

Individually LPC members have little if any power. The personal or individual views of an LPC member have little relevance outside of the LPC. The only view that is relevant is that of the LPC collectively.

It is important that LPC members make sure they are aware of the views and concerns of the contractors they represent - where a decision is to be made that will significantly affect contractors or a major financial expenditure is planned a more formal consultation may be needed or a meeting of contractors may need to be called.

Openness and Transparency

LPCs are accountable to contractors for the way in which they conduct their business which should be done in an open and transparent manner.

As a matter of good governance, the agenda for LPC meetings should be freely available to contractors as should the minutes of LPC meetings. There should be no issues on the LPC agenda or in the LPC minutes which Committee would want to hide from those to whom it is accountable - contractors.

The only caveat to this is that where certain confidential information is being considered, particularly commercially sensitive information, then this should be dealt with appropriately in the agenda item and either minuted in a sensible fashion or in a separate confidential minute book.

The LPC should ensure that an Annual General Meeting is held to account to contractors on the work of the Committee and its finances. Sufficient notice should be given to contractors of the AGM and provision made for questions and comments to be put by contractors to the Committee at the meeting.

The LPC should ensure that its annual report and accounts is sent to every contractor with the notice of the AGM. At the AGM the Treasurer should explain the accounts to contractors focussing on any unusual items of expenditure, the honoraria paid to officers of the LPC if not clearly shown in the accounts, standard allowances paid to LPC members for their work. The Treasurer should also provide information on levy collections and expenditure in the current year at regular LPC meetings.

As part of the discharging of its duties, openness and accountability LPCs should provide regular reports to their contractors. LPCs should consider whether the Annual Report is sufficient for this purpose or whether more frequent reports are necessary. Some LPCs issue regular reports or newsletters throughout the year.

Financial Governance

Many of the principles of governance impinge on financial accountability. Contractors who fund the LPC will expect openness and accountability in the way their levies are spent.

To achieve this the starting point is to separate the role of Secretary and Treasurer so the posts are held by different people. This will for example mean that there will be two separate signatures on cheques - an important governance safeguard.

The Treasurer should give regular updates on finance at meetings of the LPC and prepare annual accounts in sufficient detail, audited by a professional with a practising certificate. Those accounts should be made available to contractors

with the opportunity to query the accounts at the AGM. A copy of the accounts should also be sent to the PSNC.

The LPC should note that levies collected from contractors can only be used for the purpose intended set out in section 44 and 45 of the NHS Act 1977, i.e. to defray the administrative costs of the LPC.

Delegation of Powers

Sometimes LPCs may set up working groups or sub-committees to deal with specific or detailed issues. When setting up such groups, the main committee may give certain powers to the sub-group. In such cases, the LPC should set out very clearly the remit for the group with absolute clarity in the powers that the group has, together with an instruction that no action should be taken by the sub-group beyond its remit and powers without referring back to the LPC.

Similarly, the LPC may delegate power to individuals such as the LPC Secretary or Chairman - often this is power to act in an emergency where it is not possible to call the LPC together. It is wise to set out the nature and limits of such delegation in writing and to ensure they are adopted formally by resolution of the LPC.

Again, the powers given to those individuals should be clear, as should the circumstances in which the power may be exercised. Particular care should be given not to grant too wide a discretion to individuals or sub-groups in the exercise of power and responsibilities.

Enforcing Governance

Whilst the committee may have rigorous and thorough governance arrangements in place, what sanctions should be applied in cases where the provisions are breached?

In the vast majority of cases, the integrity of individuals and peer pressure will be sufficient. However, if the LPC wishes to have specific sanctions, special measures need to be taken. Sanctions can only be applied if the LPC has the power to do so, those powers should be clear and members should be aware of the powers which can be exercised in such cases. The LPC gets its power from its constitution, therefore an amendment to the constitution may be necessary to give the LPC the power, for example, to suspend or expel an LPC member for breaches of the Committee's governance arrangements.

Most LPCs may feel that the spirit in which they wish to operate is one of relying on trust and members' integrity and hence would not wish to give themselves powers to "punish" members for breaches of governance arrangements. However, those LPCs who wish to consider this option are advised to contact Mike King at PSNC for advice.

Governance Health Check

A failure by the LPC to have sound governance arrangements in place could result in challenges or possibly legal action against the LPC by contractors

suffering injustice or financial loss as the result of the LPC's weak or lacking governance framework.

As unincorporated associations such a claim could mean that LPC members personally would be liable for any costs or compensation as a result of any successful legal action by an aggrieved contractor.

Good governance arrangements, soundly adopted, provide a useful safeguard for LPC members.

LPCs are advised to consider the principles of good governance and ensure that all members are aware of their duties and obligations in this area. It is particularly important that new members are informed as soon as possible - perhaps as soon as notification of election. It is also advisable that all members and LPC Secretaries/CEOs complete a written Declaration of Interests and sign a Confidentiality Agreement.

It would also be wise to advise the PCO of the LPC's governance arrangements as a matter of good practice.

Finally, run through the checklist in **Appendix 4** - it's a summary of the key points in this Guide and will give you a good indication of the rigour of your governance arrangements.

Need further advice?

Any issues about this guide or any LPCs requiring further information about corporate governance or wishing to discuss any particular aspect in more detail can contact Mike King on 01296 438405 or email mike.king@psnc.org.uk.

CORPORATE GOVERNANCE AND THE XXX LPC

The LPC accepted in (Month) 200X the following guiding principles for members of the Committee:

Accountability - Members of the LPC are accountable for their decisions and actions to contractors and the public and therefore submit to scrutiny.

Openness - Members should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions, and restrict information only for short term tactical reasons, or when the wider public interest clearly demands.

Honesty - Members have a clear duty to declare any private interest relating to their LPC duties, and take steps to resolve any conflicts arising.

Leadership - Members should promote and support the above principles by leadership and by example.

Representativeness (Selflessness) - members must reflect the interests of the contractors who elected or appointed them to the LPC, and must make decisions in the interests of the general body of contractors; they must not make decisions in order to gain financial or other material benefits for themselves, family or friends.

Integrity - members must not put themselves under any obligation that might influence their performance on the LPC or their ability to reflect the interests of the contractors who elected or appointed them or to make decisions in the interests of the general body of contractors.

Objectivity - in making decisions and in carrying out the business of the LPC members should act within the constitution and make decisions only on merit.

Note

The effect of the principles of Representativeness and Integrity is that the nominating bodies can mandate the member to express a view, but cannot bind him in how he votes or decides on a particular issue. This means the member can hear and participate in debate, and is free to amend his view in the light of the debate. He will no doubt then reflect back to the relevant body why he made the decision he did, recognising his accountability.

CODE OF CONDUCT – DECLARATION OF INTERESTS

Name: _____

1.	Remunerated Directorship of company(s) (public or private) and businesses owned personally or in partnership	
2.	Remunerated employment or offices	
3.	Remunerated Consultancy(s)	
4.	Remunerated work performed under contract	
5.	Names of companies or other bodies in which I have an interest, either on my own account, my spouse or infant children, for a beneficial interest in share holdings greater than the 10% of the share capital	
6.	Remunerated contributions to professional and scientific publications	
7.	Membership of other pharmaceutical bodies	

I agree to update this document at any time there is a change in my interests

Signed: _____ Date: _____

DRAFT CONFIDENTIALITY AGREEMENT FOR LPC SECRETARIES

I understand that in the course of my work as LPC Secretary I will produce or acquire information that will be commercially sensitive or may for other reasons be information that the LPC or the pharmacy contractor(s) to whom the information relates would not wish to be communicated to third parties.

I acknowledge my obligation to ensure that I do not make use of any such information for purposes other than those of the LPC, and that I seek prior consent of the Chairman of the LPC before making any use of my office or any information produced or acquired as a consequence of it. I further acknowledge that all information received from or about contractors that relates to their business and financial affairs may not be disclosed to anyone without the express consent of the contractor to whom it relates.

I will make full disclosure to the LPC of all appointments or offices held by me and I will consult the LPC prior to accepting any appointment or office that may reasonably be thought to be relevant to my work as secretary.

Signed _____ Date _____

Print Name _____

DRAFT CONFIDENTIALITY AGREEMENT FOR LPC MEMBERS

I understand that as an LPC member I may have sight of or acquire information that will be commercially sensitive or may for other reasons be information that the LPC or the pharmacy contractor(s) to whom the information relates would not wish to be communicated to third parties.

I acknowledge my obligation to ensure that I do not make use of any such information for purposes other than those of the LPC. I further acknowledge that all information received from or about contractors that relates to their business and financial affairs may not be disclosed to anyone without the express consent of the contractor to whom it relates, in which case the disclosure will be through the LPC Secretary.

I will make full disclosure to the LPC of all appointments or offices held by me and I will consult the LPC prior to accepting any appointment or office that may reasonably be thought to be relevant to my membership of the LPC.

Signed _____ Date _____

Print Name _____

LPC Governance Checklist

Committee Procedures

- LPC Governance Principles agreed and adopted at an LPC meeting, minuted and document annotated with date of agreement
- LPC Governance Principles accompany all LPC meeting papers
- LPC Governance Principles posted on the LPC website
- Check decisions or actions are within the powers of the LPC provided in the constitution
- Have Declarations of Interests available for inspection at all LPC meetings
- Make LPC meeting agendas and minutes available to contractors e.g. on a website
- Keep contractors informed of committee business through newsletters, contractor meetings etc
- Consult contractors when appropriate before significant decisions
- If delegating responsibility set remits and conditions
- Minute LPC meetings clearly and fully.
- Provide an induction procedure for new LPC members to include LPC governance(a New Members Induction Pack is available on the LPC members area of the PSNC website and PSNC also runs new members induction days)
- Hold an AGM each year in accordance with the constitution
- Prepare a Annual report to contractors
- Appoint a member or subcommittee (such as an audit committee) to monitor governance.
- Chairman to rule on dealing with conflicts of interest
- Chairman to conduct meeting in accordance with standard meeting procedures.

LPC Members

- Read the PSNC Governance guide
- Be aware of and conform to duties of the LPC set out in the LPC constitution
- New members read the PSNC Governance guide and sign to accept the LPC Governance Principles
- New members read the PSNC new members Induction pack or local equivalent
- Complete and keep updated Declaration of Interest form
- Sign confidentiality agreement
- Declare any conflicts of interest at LPC meetings as appropriate
- Adhere to corporate responsibility when making comments outside the LPC meeting

Finance

- Separate the role of secretary and treasurer
- Prepare annual accounts with sufficient detail of income and expenditure
- Accounts audited by professional with practising certificate
- Ensure levy is used for administrative purposes only

Governance and the PCT

- Send to the PCT the LPC Governance Principles
- Provide the PCT with a copy of the LPC constitution
- Seek recognition from the PCT (for new LPC or PCT)