



**Doncaster and Bassetlaw
Teaching Hospitals**
NHS Foundation Trust

DONCASTER AND BASSETLAW TEACHING HOSPITALS NHS FOUNDATION TRUST

CONSTITUTION

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1. INTERPRETATION AND DEFINITIONS

In this Constitution:

"the 2006 Act"	means the National Health Service Act 2006 as amended from time to time;
"the 2012 Act"	means the Health and Social Care Act 2012 as amended from time to time;
"the 2022 Act"	means the Health and Care Act 2022 as amended from time to time;
"Accounting Officer"	is the person who from time to time discharges the functions specified in NHS England's NHS Foundation Trust Accounting Officer Memorandum;
"Annual Members' Meeting"	means the annual members' meeting of the Trust as defined in paragraph 13 of this Constitution.
"Appointed Governors"	means the Partner Governors; those Governors appointed by the Partnership Organisations;
"Area of the Trust"	means the areas of Bassetlaw District and the City of Doncaster (specified in Annex 1 as areas of the public constituency);
"Board of Directors"	means the board of directors as constituted in accordance with this Constitution;
"Chair"	means the chair of the Trust appointed in accordance with paragraph 28 of this Constitution;
"Chief Executive"	means the chief executive officer of the Trust appointed in accordance with the terms of this Constitution;
"Constitution"	means this Constitution and all annexes to it;
"Co-optee" and "Co-opted Governor"	means an individual formally appointed by resolution of the Council of Governors who has reached the end of their elected term of office to participate at meetings of the Council of Governors under the terms specified
"Council of Governors"	means the Council of Governors as constituted in accordance with this Constitution, which has the same meaning as the council of governors in the 2006 Act and the 2012 Act;
"Deputy Chair"	means the Non-Executive Director appointed as deputy chair of the Trust in accordance with paragraph 30 of this Constitution;
"Director"	means an Executive Director or a Non-Executive Director on the Board of Directors;

"Elected Governor"	means the Public Governors and the Staff Governors; those Governors elected by the Public Constituencies and the classes of the Staff Constituency;
"Election Scheme"	means the election scheme set out in Annex 4;
"Executive Director"	means an executive director of the Trust who have voting rights on the Board;
"Fit and Proper Person Requirements (FPPR)"	means those requirements stipulated under Regulation 5 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations)
"Financial Year"	means a period of 12 months beginning on 1 st April in a calendar year and ending on 31 st March in the following calendar year;
"Governor"	means a Governor on the Council of Governors and being either an Elected Governor or an Appointed Governor;
"Health Service Body"	means a body which is a health service body for the purpose of section 9(4) of the 2006 Act;
"Independent Regulator" or "NHS England"	is the body corporate known as NHS England, as provided by Section 61 of the 2012 Act; or any successor regulator.
"Lead Governor"	means a Governor elected by the Council of Governors to fulfil the statutory role originally set out by Monitor (now NHS England) and to Chair any meetings of Governors when the Chair or Deputy Chair are absent, for whatever reason
"Local Authority"	means the local authorities specified in Annex 3, which are local authorities for an area which includes the whole or part of the area of the Trust;
"Local Authority Governor"	means a member of the Council of Governors appointed by a Local Authority in accordance with the provisions of this Constitution and as specified in Annex 3;
"Meeting"	Means a meeting of individuals for the purpose of conducting business on behalf of the Trust and where they are authorised to do. This includes face-to-face, virtual and hybrid meeting formats.
"Member"	means a member of the Trust;
"Membership"	means membership of the Trust as determined in accordance with the provisions of this Constitution and as specified in Annex 3;
"Model Election Rules"	means the model form rules for the conduct of elections published from time to time by the Department of Health and as currently set out in Annex 4;

"Non-Executive Director"	means a non-executive director of the Trust;
"Partner Governor"	means a member of the Council of Governors appointed by a Partnership Organisation specified in Annex 3;
"Partner Organisation"	means those organisations designated as Partnership Organisations for the purposes of this Constitution specified in Annex 3;
"Public Constituencies"	means a public constituency as defined in Annex 1;
"Public Governor"	means a member of the Council of Governors elected by the Members of the Public Constituency;
"Registered Dentist"	a registered dentist within the meaning of the Dentists Act 1984;
"Registered Medical Practitioner"	a fully registered person within the meaning of the Medicines Act 1983 who holds a licence to practice under that Act;
"Secretary"	means the Trust Company Secretary or any other person appointed to perform the duties of the secretary to the Board, including a joint, assistant or deputy secretary;
"Senior Independent Director"	means the Non-Executive Director appointed by the Board as the senior independent director of the Trust;
"Staff Class"	means a class of Membership within the Staff Constituency as provided for in Schedule 7 to the 2006 Act and as set out in Annex 2;
"Staff Constituency"	means the part of the Trust's Membership consisting of the staff of the Trust and which is divided into the classes as specified in Annex 2;
"Staff Governor"	means a member of the Council of Governors elected by a Staff Class in accordance with the provisions of this Constitution;
"the Trust"	means Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust;

1.1 Unless the contrary intention appears or the context otherwise requires, words or expressions contained in this Constitution bear the same meaning as in the 2006 Act as amended by the Health and Social Care Act 2012.

1.2 References in this Constitution to legislation include all amendments, replacements or re-enactments made and include all subordinate legislation made thereunder

1.3 References to legislation include all regulations, statutory guidance and directions.

1.4 Headings are for ease of reference only and are not to affect interpretation.

1.5 If there is a conflict between the provisions of this Constitution and the provisions of any document referred to herein or the law, then the provisions of this Constitution shall prevail unless the law requires otherwise.

1.6 All Annexes referred to in this Constitution form part of it.

1.7 References to paragraphs are to paragraphs in this Constitution save that where there is a reference to a paragraph in an Annex to this Constitution it shall be a reference to a paragraph in that Annex unless the contrary is expressly stated, or the context otherwise so requires

2. NAME

2.1 The name of the foundation trust is Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust (The Trust).

3. PRINCIPAL PURPOSE

3.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.

3.2 The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

3.3 The Trust may provide goods and services for any purposes related to:

3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and

3.3.2 the promotion and protection of public health.

3.4 The Trust may also undertake activities other than those mentioned in section 3 for the purpose of making additional income available in order better to carry on the Trust's principal purpose.

3.5 Notwithstanding the provisions of 3.1 above, the purpose of the Trust is to provide goods, and services, including education, training and research and other facilities for the provision of healthcare, in accordance with its statutory duties.

3.6 The Trust may carry out research in connection with the provision of healthcare and make facilities and staff available for the purposes of education, training or research carried on by others

4. POWERS

4.1 The powers of the Trust are set out in the 2006 Act and amended by the Health and Social Care Act 2012 and the Health and Care Act 2022.

4.2 All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.

4.3 Subject to any restriction contained in this Constitution or in legislation, any of these powers may be delegated to a committee of directors or to an executive director.

5. MEMBERSHIP AND CONSTITUENCIES

5.1 The Trust shall have Members, each of whom shall be a Member of one of the following constituencies:

5.1.1 a Public Constituency; or

5.1.2 a Staff Constituency.

6. APPLICATION FOR MEMBERSHIP

6.1 An individual who is eligible to become a Member of the Trust may do so on application to the Trust.

6.2 Applications for membership will be handled by the Trust in accordance with the provisions set out in Annex 6

7. PUBLIC CONSTITUENCY

7.1 The Public Constituency comprises three areas as set out in Annex 1. Each area of the Public Constituency is to be known by the name listed in Annex 1.

7.2 An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a Member of the Trust provided that:

7.2.1 they have made an application for Membership to the Trust; and

7.2.2 they are not eligible to become a Member of the Staff Constituency; and

7.2.3 they are not otherwise disqualified from Membership under paragraph 4 or paragraph 2 of Annex 6.

7.3 Those individuals who live in an area specified for a Public Constituency are referred to collectively as the Public Constituency.

7.4 The minimum number of Members in each area for the Public Constituency is specified in Annex 1.

8. STAFF CONSTITUENCY

8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a Member of the Trust provided:

8.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least twelve (12) months; or

8.1.2 they have been continuously employed by the Trust under a contract of employment for at least twelve (12) months.

8.2 Those individuals who are eligible for Membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

8.3 The Staff Constituency shall be divided into four (4) classes of individuals who are eligible for Membership of the Staff Constituency, each class of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.

8.4 The minimum number of Members in each class of the Staff Constituency is specified in Annex 2.

9. AUTOMATIC MEMBERSHIP BY DEFAULT AND BY APPLICATION – STAFF

9.1 An individual who is:

9.1.1 eligible to become a Member of the Staff Constituency, and

9.1.2 invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate Staff Class within the Staff Constituency, shall become a Member of the Trust as a Member of the Staff Constituency and appropriate Staff Class within the Staff Constituency without an application being made, unless they inform the Trust they do not wish to do so.

9.2 The process by which an individual shall be invited or shall apply to become a Member of the Staff Constituency shall be in accordance with the provisions of Annex 6.

10. SECTION 10 PATIENTS CONSTITUENCY

Not Used

11. SECTION 11 AUTOMATIC MEMBERSHIP BY DEFAULT -PATIENTS

Not Used

12. RESTRICTION ON MEMBERSHIP

12.1 An individual who is a Member of a constituency, or of a class within a constituency, may not while Membership of that constituency or class continues, be a Member of any other constituency or class.

12.2 An individual who satisfies the criteria for Membership of the Staff Constituency may not become or continue as a Member of any constituency other than the Staff Constituency.

12.3 An individual shall not be eligible for membership of the trust if they:

12.3.1 are under sixteen (16) years old at the date of their application or invitation to become a Member (as the case may be)

12.3.2 fail or cease to fulfil the criteria for membership of any Public or Staff Constituency

12.3.3 has been placed on the sex offenders Register or is the subject of a Sex Offenders Order;

12.3.4 demonstrates aggression, violent or abusive behaviour at any hospital or against any of the Trust's employees or other persons who exercise functions for the purposes of the Trust, and following such behaviour they have been asked to leave.

12.3.5 has been confirmed as a "vexatious complainant" in accordance with the Trusts policy for handling complaints;

12.3.6 has been removed as a Member of the Trust of another NHS Foundation Trust

12.3.7 is deemed to have acted in a manner contrary to the interests of the Trust.

12.4 Further provisions as to the circumstances in which an individual may not become or continue as a Member of the Trust are set out in Annex 6.

13. ANNUAL MEMBERS' MEETING

13.1 The Trust shall hold an annual meeting of its members ('Annual Members' Meeting'). The Annual Members' Meeting shall be open to members of the public.

13.2 Further provisions about the Annual Members' Meeting are set out in Annex 9 – Annual Members' Meeting.

14. COUNCIL OF GOVERNORS - COMPOSITION

14.1 The Trust is to have a Council of Governors, which shall comprise both Elected and Appointed Governors and the Chair of the Trust.

14.2 The composition of the Council of Governors is specified in Annex 3.

14.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their Constituency or, where there are classes within a constituency, by their class within that Constituency. The number of Governors to be elected by each Constituency, or, where appropriate, by each class of each Constituency, is specified in Annex 3.

14.4 The Council of Governors may co-opt individuals who have reached the end of their elected term of office to remain as members of the Council of Governors but only for a time period until the next elections and will not exceed the usual term of office of an elected Governor.

14.5 The agreement and removal of a Co-opted Governor will be subject to the approval of the Council of Governors by a majority of the Council of Governors present and voting.

14.6 Co-opted Governors shall not have voting rights at a general meeting nor be counted in the quorum but will have free access to contribute to discussions therein.

15. COUNCIL OF GOVERNORS - ELECTION OF GOVERNORS

15.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules 2014.

15.2 The Model Election Rules as may be varied from time to time, form part of this Constitution and are attached at Annex 4.

15.3 A subsequent variation of the Model Election Rules by the Department of Health & Social Care 2014 shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 48 of the Constitution (amendment of the Constitution).

15.4 An election, if contested, shall be by secret ballot.

16. COUNCIL OF GOVERNORS - TENURE

- 16.1 An Elected Governor may hold office for a period of up to three (3) years.
- 16.2 An Elected Governor shall cease to hold office if they cease to be a Member of the Constituency or class by which they were elected.
- 16.3 An Elected Governor shall be eligible for re-election at the end of their term but no Elected Governor may hold office for more than nine (9) years. An Elected Governor may not stand for election again on completion of the maximum nine years. An Elected Governor who does not complete the maximum nine-year term may stand for re-election but only for the remaining years to achieve nine (9) years in total.
- 16.4 An Appointed Governor may hold office for a period of three (3) years.
- 16.5 An Appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them.
- 16.6 An Appointed Governor shall be eligible for re-appointment at the end of their term but no Appointed Governor may hold office for more than nine (9) years.

17. COUNCIL OF GOVERNORS – DISQUALIFICATION AND REMOVAL

- 17.1 The following may not become or continue as a member of the Council of Governors:
- 17.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 17.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;
 - 17.1.3 a person who within the preceding five (5) years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them;
 - 17.1.4 a governor, whose term of office is terminated in line with Annex 5 section 3.
- 17.2 Governors must be at least sixteen (16) years of age at the date they are nominated for election or appointment.
- 17.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 5.
- 17.4 Provisions for the removal of governors are set out in Annex 5.

18. COUNCIL OF GOVERNORS – DUTIES OF GOVERNORS

- 18.1 The general duties of the Council of Governors are:

- 18.1.1 to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors; and
- 18.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.
- 18.1.3 as a result of the Health and Care Act 2022 governors are required to factor into their decision making a balance between serving the public interest of their constituents (i.e. the Trust and local community which elects them) with a wider (regional) public interest across the Integrated Care Systems the Trust is linked with.

18.2 The Trust must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.

18.3 Governors must take up the opportunities that the Trust offers to provide them with these skills and knowledge. In the event that a Governor is deemed to not be fulfilling these roles and responsibilities, then the Trust Secretary will carry out a review with that Governor and identify any programme of support required to address the situation. In the absence of any improvement, then a Council of Governors decision could be made to remove the Governor from their role.

19. COUNCIL OF GOVERNORS – MEETINGS OF GOVERNORS

19.1 The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 28 below) or, in their absence, the Deputy Chair (appointed in accordance with the provisions of paragraph 30 below), shall preside at meetings of the Council of Governors save that if the Chair and Deputy Chair are unable to preside whether for reasons of absence, conflict of interest or otherwise the Senior Independent Director or Lead Governor shall preside.

19.2 Meetings of the Council of Governors shall be open to members of the public save that members of the public may be excluded from a meeting on the grounds that publicity would be prejudicial to the public interest or the interests of the Trust by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution

19.3 For the purposes of obtaining information about the Trust's performance of its functions or the directors' performance of their duties, and to be able to hold the non-executive directors to account for the performance of the Board, the Council of Governors may require one or more of the non-executive directors to attend a meeting.

19.4 Details on the standing orders for the procedure and practice of the Council of Governors is given in Annex 7

20. COUNCIL OF GOVERNORS – STANDING ORDERS

20.1 The Council of Governors shall adopt its own standing orders, as may be varied from time to time, for its practice and procedure, in particular for its procedure and practice at meetings and are attached at Annex 7.

21. COUNCIL OF GOVERNORS – REFERRAL TO THE PANEL

21.1 In this paragraph, the “Panel” means a panel of persons appointed by the Regulator to which a member of the Council of Governors may refer a question as to whether the Trust has failed or is failing:

21.1.1 to act in accordance with this Constitution, or

21.1.2 to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

21.2 A member of the Council of Governors may refer a question to the Panel only if more than half of the members of the Council of Governors present and voting at a meeting of the Council of Governors approve the referral.

22. COUNCIL OF GOVERNORS - CONFLICTS OF INTEREST OF GOVERNORS

22.1 Governors are required to declare any pecuniary, personal or family interest on nomination and on appointment as a governor, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it

22.2 The Standing Orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed. The Chair of the meeting decides on exclusion on the facts.

23. COUNCIL OF GOVERNORS – TRAVEL EXPENSES

23.1 The Trust may pay travelling and other expenses to members of the Council of Governors at rates determined by the Trust. For the avoidance of doubt, members of the Council of Governors are not to receive remuneration but can receive expenses incurred as part of their role as Governors.

24. COUNCIL OF GOVERNORS – FURTHER PROVISIONS

24.1 Further provisions with respect to the Council of Governors are set out in Annex 6.

25. BOARD OF DIRECTORS – COMPOSITION

25.1 The Trust is to have a Board of Directors, which shall comprise both Executive and Non-Executive Directors.

25.2 All directors should be able to exercise one full vote, with the chairperson having a second or casting vote on occasions where voting is tied.

25.3 The Board of Directors is to comprise:

25.3.1 a non-executive Chair (who shall have a casting vote)

25.3.2 other Non-Executive Directors (i.e. not including the Chair)

25.3.3 Executive Directors (but not exceeding the combined number of Non-Executive Directors and the Non-Executive Chair)

25.4 One of the Executive Directors shall be the Chief Executive.

25.5 The Chief Executive shall be the Accounting Officer.

25.6 One of the Executive Directors shall be the Chief Finance Officer.

25.7 One of the Executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

25.8 One of the Executive Directors is to be a registered nurse or a registered midwife.

25.9 For the avoidance of doubt, the Deputy Chair shall have the casting vote in the event that the Chair is not participating at the meeting where voting takes place.

25.10 The Senior Independent Director will be nominated by the Chair, and approved by the Council of Governors and shall perform the role set out in the Code of Governance for NHS Provider Trusts.

26. BOARD OF DIRECTORS – GENERAL DUTY

26.1 The general duty of the Board of Directors and of each director individually, is to act with a view to promoting the success of the Trust so as to maximise the benefits for the members of the Trust as a whole and for the public.

27. BOARD OF DIRECTORS – QUALIFICATION FOR APPOINTMENT AS A NON-EXECUTIVE DIRECTOR

27.1 A person may be appointed as a Non-Executive Director only if:

27.1.1 they are a Member of the Public Constituency; and

27.1.2 they are not disqualified by virtue of paragraph 33 below.

28. BOARD OF DIRECTORS – APPOINTMENT AND REMOVAL OF CHAIR AND OTHER NON-EXECUTIVE DIRECTORS

28.1 The Chair and Non-Executive Directors are appointed for a term of up to three years. This may be extended by a further term of up to three years if the needs of the organisation so determine. The Chair and Non-Executive Directors may not usually serve for more than six years, unless it considers such an extension is in the best interests of the Trust.

28.2 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair and the other Non-Executive Directors.

28.3 Removal of the Chair or another Non-Executive Director shall require the approval of three-quarters of the members of the Council of Governors attending the meeting.

28.4 The provisions of paragraph 5 of Annex 5 and paragraph 6 of Annex 6 shall also apply.

28.5 If any resolution to remove a Non-Executive Director (including the Chair) is not approved at a meeting of the Council of Governors in accordance with paragraph 28.2 above, no further resolution can be put forward to remove such Non-Executive Director, or the Chair which is based on the same reasons within 12 calendar months of the meeting of the Council of Governors at which the resolution mentioned in paragraph 28.2 above was considered.

28.6 Subject to the provisions of paragraphs 28.1 to 28.5, new Non-Executive Directors and the Chair will be appointed using the procedures set out below:

28.6.1 only a member of a Public Constituency may be appointed as the Chair or other Non-Executive Director; and

28.6.2 the Chair and other Non-Executive Directors shall be appointed in accordance with paragraphs 28.7 to 28.13 below.

28.7 The Council of Governors shall establish a committee of its members to be called the Nominations and Remuneration Committee to discharge those functions in relation to the appointment of the Chair and Non-Executive Directors described in paragraphs 28.8 - 28.11 below.

28.8 The Nominations and Remuneration Committee shall consist of no more than seven members which shall comprise of at least:

28.8.1 3 Public Governors;

28.8.2 1 Staff Governor; and

28.8.3 The Chair of the Trust, except where their performance or remuneration is being considered at which point the Senior Independent Director should assume this position.

28.9 The functions of the Nominations and Remuneration Committee shall be as follows:

28.9.1 to determine the criteria and process for the selection of candidates for office as Chair or other Non-Executive Director of the Trust having first consulted with the Board of Directors as to those matters and having regard to such views as may be expressed by the Board of Directors;

28.9.2 where the Nominations and Remuneration Committee considers that either the Chair or the Non-Executive Director coming to the end of their term of office should be reappointed for a further term, the Nominations and Remuneration Committee shall make a recommendation to the Council of Governors to that effect, save that the Nominations and Remuneration Committee may not make any such recommendation other than for a first re-appointment of the Chair or the Non-Executive Director in question;

28.9.3 Where:

(a) the Nominations and Remuneration Committee does not make a recommendation that the Chair or a Non-Executive Director should be reappointed in accordance with paragraph 28.9.2 above; or

- (b) the Chair or (as the case may be) the Non-Executive Director in question does not want to be reappointed; or
- (c) the Council of Governors rejects a recommendation that the Chair or (as the case may be) a Non-Executive Director should be reappointed in accordance with paragraph 28.9.2 above,
- (d) the Nominations and Remuneration Committee shall initiate a process of open competition for the appointment of the Chair or (as the case may be) the Non-Executive Director, and the post will be advertised. Further, the Nominations and Remuneration Committee shall assess and select for interview such candidates as are considered appropriate and in doing so the Nominations and Remuneration Committee shall be at liberty to seek advice and assistance from persons other than members of the Nominations and Remuneration Committee or the Council of Governors;

28.9.4 on a regular and systematic basis monitor the performance of the Chair and other Non-Executive Directors and make reports thereon to the Council of Governors from time to time when requested to do so or when in the opinion of the Nominations and Remuneration Committee the results of such monitoring ought properly to be brought to the attention of the Council of Governors; and

28.9.5 to consider and make recommendations to the Council of Governors as to the remuneration and allowances and other terms and conditions of office of the Chair and other Non-Executive Directors.

28.10 The Council of Governors shall resolve in general meeting to appoint such candidate or candidates (as the case may be) as it considers appropriate and in reaching its decision it shall have regard to the views of the Board of Directors and of the Nominations and Remuneration Committee as to the suitability of the available candidates.

28.11 The Council of Governors will not consider nominations for membership of the Board of Directors other than those made by the appropriate Nominations and Remuneration Committee.

29. SECTION 29 (INITIAL FOUNDATION TRUSTS'S)

Not used

30. BOARD OF DIRECTORS – APPOINTMENT OF DEPUTY CHAIR

30.1 The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a deputy chair. The Deputy Chair will be the Deputy Chair of the Council of Governors.

30.2 The Deputy Chair shall be appointed for a term of 3 years and shall be eligible for re-appointment at the end of that term but may not serve as Deputy Chair for more than a total of 6 years, unless it considers such an extension is in the best interests of the Trust.

31. BOARD OF DIRECTORS - APPOINTMENT AND REMOVAL OF THE CHIEF EXECUTIVE AND OTHER EXECUTIVE DIRECTORS

- 31.1 The Non-Executive Directors shall appoint or remove the Chief Executive.
- 31.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.
- 31.3 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

32. SECTION 32 (INITIAL FOUNDATION TRUSTS'S)

Not used

33. BOARD OF DIRECTORS – DISQUALIFICATION

- 33.1 The following may not become or continue as a member of the Board of Directors:
- 33.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 33.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and who has not been discharged in respect of it;
 - 33.1.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them;
 - 33.1.4 a person who does not satisfy all of the 'fit and proper person' requirements set out in regulation 5(3) of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014;
 - 33.1.5 The Regulator has exercised its powers to remove them as a Director of the Trust or has suspended them from office or has disqualified them from holding office as a Director of the Trust for a specified period or the Regulator has exercised any of those powers in relation to them on any other occasion whether in relation to the Trust or some other NHS foundation trust or
 - 33.1.6 a person who falls within the further grounds for disqualification set out in Annex 6.

34. BOARD OF DIRECTORS – MEETINGS

- 34.1 Meetings of the Board of Directors shall be open to members of the public as observers. Members of the public may be excluded from the remainder of a meeting having regard to the confidential nature of the business to be transacted, publicity of which would be prejudicial to the public interest.
- 34.2 Before holding a meeting, the Board of Directors must make available the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must make available the approved minutes of the meeting to the Council of Governors.

35. BOARD OF DIRECTORS – STANDING ORDERS

35.1 The Board of Directors shall adopt its own standing orders, as may be varied from time to time, for its practice and procedure, and are given in Annex 8.

36. BOARD OF DIRECTORS - CONFLICTS OF INTEREST OF DIRECTORS

36.1 The duties that a director of the Trust has by virtue of being a director include in particular:

36.1.1 A duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the Trust.

36.1.2 A duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.

36.2 The duty referred to in sub-paragraph 36.1.1 is not infringed if:

36.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

36.2.2 The matter has been authorised in accordance with the constitution.

36.3 The duty referred to in sub-paragraph 36.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

36.4 In sub-paragraph 36.1.2, “third party” means a person other than –

36.4.1 The Trust, or

36.4.2 A person acting on its behalf.

36.5 If a director of the Trust has in any way a direct or indirect interest in a proposed transaction or, arrangement with the Trust, the director must declare the nature and extent of that interest to the other directors.

36.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

36.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

36.8 This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

36.9 A director need not declare an interest –

36.9.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

36.9.2 if, or to the extent that, the directors are already aware of it;

36.9.3 if, or to the extent that, it concerns terms of the director’s appointment that have been or are to be considered –

(a) By a meeting of the Board of Directors, or

(b) By a committee of the directors appointed for the purpose under the constitution.

36.10 The Standing Orders for the Board of Directors shall make provision for the disclosure of interests and arrangements for the exclusion of a director declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

37. BOARD OF DIRECTORS – REMUNERATION AND TERMS OF OFFICE

37.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors.

37.2 A committee of Non-Executive Directors shall be established to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

38. REGISTERS

38.1 The Trust shall have:

38.1.1 a register of Members showing, in respect of each Member, the constituency to which they belong and, where there are classes within it, the class to which they belong;

38.1.2 a register of members of the Council of Governors;

38.1.3 a register of interests of Governors;

38.1.4 a register of Directors; and

38.1.5 a register of interests of the Directors.

39. ADMISSION TO AND REMOVAL FROM THE REGISTERS

39.1 The process of admission to and removal from the registers shall be as set out in Annex 6.

40. REGISTERS – INSPECTION AND COPIES

40.1 The Trust shall make the registers specified in paragraph 38 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

40.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the Trust, if the member so requests.

40.3 So far as the registers are required to be made available:

40.3.1 they are to be available for inspection free of charge at all reasonable times; and

40.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.

40.4 If the person requesting a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

41. DOCUMENTS AVAILABLE FOR PUBLIC INSPECTION

41.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:

- 41.1.1 a copy of the current Constitution;
- 41.1.2 a copy of the latest Annual Accounts and of any report of the auditor on them;
- 41.1.3 a copy of the latest Annual Report;
- 41.1.4 a copy of the latest Annual Quality Report.

41.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:

- 41.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act.
- 41.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.
- 41.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.
- 41.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.
- 41.2.5 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act.
- 41.2.6 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (NHS England), 65KB (Secretary of State's response to NHS England decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.
- 41.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.
- 41.2.8 a copy of any final report published under section 65I (administrator's final report),
- 41.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.
- 41.2.10 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.

41.3 Any person who requests a copy of or extract from any of the above documents is to be provided with access to a copy.

41.4 If the person requesting access to a copy or extract is not a Member of the Trust, the Trust may impose a reasonable charge for doing so.

42. AUDITOR

42.1 The Trust shall have an External auditor.

42.2 The Council of Governors shall appoint or remove the External auditor at a general meeting of the Council of Governors.

43. AUDIT AND RISK COMMITTEE

43.1 The Trust shall establish a committee of Non-Executive Directors as an audit and risk committee to perform such monitoring, reviewing and other functions as are appropriate.

44. ACCOUNTS

44.1 The Trust must keep proper accounts and proper records in relation to the accounts.

44.2 The Regulator may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

44.3 The accounts are to be audited by the Trust's external auditor.

44.4 The Trust shall prepare in respect of each financial year annual accounts in such form as the Regulator may with the approval of the Secretary of State direct.

44.5 The functions of the Trust with respect to the preparation of the annual accounts as set out in paragraph 25 of Schedule 7 of the 2006 Act, shall be delegated to the Accounting Officer.

45. ANNUAL REPORT, FORWARD PLANS AND NON-NHS WORK

45.1 The Trust shall prepare an Annual Report and send it to the Regulator.

45.2 The Trust shall give information as to its forward planning in respect of each financial year to the Regulator.

45.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.

45.4 In preparing the document, the directors shall have regard to the views of the Council of Governors.

45.5 Each forward plan must include information about:

45.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and

45.5.2 the income it expects to receive from doing so.

45.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 45.5.1 the Council of Governors must:

45.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions, and

45.6.2 notify the directors of the Trust and its determination.

45.7 Where the trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of health service in England may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

46. PRESENTATION OF THE ANNUAL ACCOUNTS AND REPORTS TO THE GOVERNORS AND MEMBERS

46.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors.

46.1.1 the annual accounts;

46.1.2 any report of the external auditor on them; and

46.1.3 the annual report.

46.2 The documents shall also be presented to the members of the Trust at the Annual Members' Meeting by at least one member of the Board of Directors in attendance.

46.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 46.1 with the Annual Members' Meeting.

47. INSTRUMENTS

47.1 The Trust shall have a seal.

47.2 The seal shall not be affixed except under the authority of the Board of Directors.

48. AMENDMENT OF THE CONSTITUTION

48.1 The Trust may make amendments to its Constitution only if:

48.1.1 more than half of the members of the Council of Governors voting at a meeting approve the amendments; and

48.1.2 more than half of the members of the Board of Directors voting at a meeting approve the amendments.

48.2 Amendments made under paragraph 48.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

48.3 Where an amendment is made to the Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

48.3.1 At least one member of the Council of Governors most likely the Lead Governor must attend the next Annual Members' Meeting and present the amendment, and

48.3.2 The Trust must give the members an opportunity to vote on whether they approve the amendment.

48.4 If more than half of the members present and voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.

48.5 Amendments by the trust of its constitution are to be notified to the Regulator. For the avoidance of doubt, the Regulator's functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

49. MERGERS ETC. AND SIGNIFICANT TRANSACTIONS

49.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors voting at a general meeting.

49.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors voting at a general meeting approve entering into the transaction..

49.3 For the purpose of paragraph 49.2, "significant transaction" means a transaction which meets any one of the following criteria:

49.3.1 where the *gross assets subject to the transaction are greater than or equal to 25% of the gross assets of the Trust;

49.3.2 where the income attributable to the assets or the contract associated with the transaction is greater than or equal to 25% of the income of the Trust;

49.3.3 where the **gross capital of the company or business being acquired or divested, or the effects on the ***total capital of the Trust resulting from a transaction, is greater than or equal to 25% of the total capital of the Trust following completion of the transaction.

* Gross assets is the total of fixed assets and current assets

** Gross capital equals the market value of the target's shares and debt securities, plus the excess of current liabilities over current assets

*** Total capital of the Trust equals taxpayers' equity

ANNEX 1 – THE PUBLIC CONSTITUENCY

Table 1

1	2	3	4
Name of the Public Constituency	Area of the Public Constituency (as defined by Local Authority boundaries)	Minimum Number of Members	Number of Governors to be Elected
Bassetlaw	Bassetlaw District Council (or any successor organisation)	20	3
Doncaster	City of Doncaster (or any successor organisation)	20	8
Rest of England & Wales	Any other electoral area in England and Wales with the exception of the above	20	1
Total	Public Governors		12

ANNEX 2 – THE STAFF CONSTITUENCY

Table 1

Staff Class	Minimum Number of Members	Number of Governors to be elected
Medical and Dental Practitioners Staff Class	20	1
Nurses and Midwives Staff Class	20	2
Other Healthcare Professionals Staff Class	20	1
Non-Clinical Staff Class	20	2
TOTAL	120	6

1. CLASSES OF THE STAFF CONSTITUENCY

1.1 The Staff Constituency shall be divided into four classes as follows:

- 1.1.1 Medical and Dental Practitioners Staff Class;
- 1.1.2 Nurses and Midwives Staff Class;
- 1.1.3 Other Healthcare Professionals Staff Class; and
- 1.1.4 Non-Clinical Staff Class.

1.2 Medical and Dental Practitioners Staff Class

1.2.1 The Members of the Medical and Dental Staff Class are individuals who are Members of Staff Constituency who:

- (a) are fully registered persons within the meaning of the Medicines Act 1956 or the Dentists Act 1984 (as the case may be) and who are otherwise fully authorised and licensed to practise in England and Wales or who are otherwise designated by the Trust from time to time as eligible to be Members of this Staff Class for the purposes of this paragraph having regard to the usual definitions applicable at that time for persons carrying on the professions of medical practitioner or dentist; and
- (b) who are employed by the Trust in that capacity at the date of their invitation or application under paragraph 8 of the Constitution to become a Member in

accordance with the provisions of Annex 6 and at all times thereafter remain employed by the Trust in that capacity.

1.3 Nurses and Midwives Staff Class

1.3.1 The Members of the Nurses and Midwives Staff Class are individuals who:

- (a) are registered under the Nurses, Midwives and Health Visitors Act 1997 and who are otherwise fully authorised and licensed to practise in England and Wales or are otherwise designated by the Trust from time to time as eligible to be Members of the Staff Class for the purposes of this paragraph, having regard to the usual definitions applicable at that time for persons carrying on the profession of registered nurse or registered midwife and individuals who are health care assistants; and
- (b) who are employed by the Trust in that capacity at the date of their invitation or application under paragraph 8 of the Constitution to become a Member in accordance with the provisions of Annex 6 and at all times thereafter remain employed by the Trust in that capacity.

1.4 Other Healthcare Professionals Staff Class

1.4.1 Members of the Other Healthcare Professionals Staff Class are clinical staff who do not fall within paragraphs 1.2 or 1.3 of this Annex 2, including clinical therapists, scientists and technical staff, who are employed by the Trust in that capacity at the date of their invitation or application under paragraph 8 of the Constitution to become a Member in accordance with the provisions of Annex 6 and at all times thereafter remain employed by the Trust in that capacity.

1.5 Non-Clinical Staff Class

1.5.1 Members of the Non-Clinical Staff Class are Members of the Staff Constituency who do not come within paragraphs 1.2, 1.3 or 1.4 of this Annex 2.

2. MINIMUM NUMBERS AND NUMBERS OF GOVERNORS

2.1 The minimum number of Members in each Staff Class and the number of Governors to be elected by each such Staff Class are given in Table 1.

3. CONTINUOUS EMPLOYMENT

3.1 For the purposes of paragraph 7.1.2 of the Constitution, Chapter 1 of Part 14 of the Employment Rights Act 1996 shall apply for the purposes of determining whether an individual has been continuously employed by the Trust or has continuously exercised functions for the purposes of the Trust.

ANNEX 3 – COMPOSITION OF COUNCIL OF GOVERNORS

1. INTRODUCTION

1.1 The Council of Governors shall comprise:

1.1.1 The Chair of the Trust

1.1.2 Governors who are:

- (a) elected by the respective Constituencies in accordance with the provisions of this Constitution; or
- (b) appointed in accordance with paragraph 2 below.

1.2 The Council of Governors shall at all times be constituted so that more than half the Council of Governors shall consist of Governors who are elected by Members of the Public Constituency.

2. BODIES ENTITLED TO APPOINT A MEMBER TO THE COUNCIL OF GOVERNORS

2.1 The Trust may appoint partnering Governor or Governors (as the case may be) to the Council of Governors as provided for in this paragraph 2.

2.2 Local Authority Governors

2.2.1 City of Doncaster Council (or its successor organisation) shall be entitled to appoint one Governor in accordance with a process of appointment agreed by it with the Trust.

2.2.2 Bassetlaw District Council (or its successor organisation) shall be entitled to appoint one Governor in accordance with a process of appointment agreed by each of them with the Trust.

2.3 Partner Governors

2.3.1 In addition to the organisations listed in 2.1 and 2.2, the following organisations have also been nominated by the Trust as Partnership Organisations for the purposes of this Constitution:

- (a) University of Sheffield;
- (b) Sheffield Hallam University;

2.3.2 In addition to the organisations listed above (2.2 and 2.3), the Trust may nominate 2 further organisations to appoint governors (1 per organisation).

2.3.3 Each of the partnering organisations shall be entitled to appoint a Governor in accordance with a process of appointment agreed by it with the Trust.

3. COMPOSITION OF THE COUNCIL OF GOVERNORS

	Electing / Appointing Body	Number of Governors	Total
1.	Public Constituencies		12
	1.1 Bassetlaw District	3	
	1.2 City of Doncaster	8	
	1.3 Rest of England and Wales	1	
2.	Staff Constituency		6
	2.1 Medical and Dental Practitioners Staff Class	1	
	2.2 Nurses and Midwives Staff Class	2	
	2.3 Other Healthcare Professionals Staff Class	1	
	2.4 Non-Clinical Staff Class	2	
3.	Appointed Governors		up to 6
	3.1 City of Doncaster Council	1	
	3.2 Bassetlaw District Council (or its successor organisation)	1	
	3.3	1	
	3.4 University of Sheffield	1	
	3.5 Sheffield Hallam University	2	
	Provision available for further two (2) appointed governors from partnership organisations appointed by the Trust		
	Total Elected Governors		15
	Total Maximum Appointed Governors		6
	Total Number of Governors including appointed		21

4. FURTHER PROVISIONS

4.1 Further provisions relating to the composition of the Council of Governors are at Annex 6.

ANNEX 4 – THE MODEL ELECTION RULES

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PART 1: INTERPRETATION**1. Interpretation**

1.1 In these rules, unless the context otherwise requires:

“2006 Act” means the National Health Service Act 2006;

“corporation” means the public benefit corporation subject to this Constitution;

“Council of Governors” means the Council of Governors of the corporation;

“declaration of identity” has the meaning set out in rule 21.1;

“election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the Council of Governors;

“the Regulator” means the Independent Regulator for NHS Foundation Trusts

“e-voting” means voting using either the internet, telephone or text message;

“e-voting information” has the meaning set out in rule 24.2;

“ID declaration form” has the meaning set out in Rule 21.1; *“internet voting record”* has the meaning set out in rule 26.4(d);

“internet voting system” means such computer hardware and software, data other equipment and services as may be provided by the returning officer for the purpose of enabling voters to cast their votes using the internet;

“lead governor” means the governor elected by the Council of Governors to fulfil the role described in Appendix B to The NHS Foundation Trust Code of Governance (Monitor, December 2013) or any later version of such code.

“list of eligible voters” means the list referred to in rule 22.1, containing the information in rule 22.2;

“method of polling” means a method of casting a vote in a poll, which may be by post, internet, text message or telephone;

“numerical voting code” has the meaning set out in rule 64.2(b)

“polling website” has the meaning set out in rule 26.1;

“postal voting information” has the meaning set out in rule 24.1;

“telephone short code” means a short telephone number used for the purposes of submitting a vote by text message;

“telephone voting facility” has the meaning set out in rule 26.2;

“telephone voting record” has the meaning set out in rule 26.5 (d);

“text message voting facility” has the meaning set out in rule 26.3;

“text voting record” has the meaning set out in rule 26.6 (d);

“the telephone voting system” means such telephone voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by telephone;

“the text message voting system” means such text messaging voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by text message;

“voter ID number” means a unique, randomly generated numeric identifier allocated to each voter by the Returning Officer for the purpose of e-voting,

“voting information” means postal voting information and/or e-voting information

- 1.2 Other expressions used in these rules and in Schedule 7 to the NHS Act 2006 have the same meaning in these rules as in that Schedule.

PART 2: TIMETABLE FOR ELECTION

2. Timetable

- 2.1 The proceedings at an election shall be conducted in accordance with the following timetable:

Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination forms to returning officer	Not later than the twenty eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time

- 3.1 In computing any period of time for the purposes of the timetable:

- (a) a Saturday or Sunday;
- (b) Christmas day, Good Friday, or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll, nor shall the returning officer be obliged to proceed with the counting of votes on such a day.

- 3.2 In this rule, “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.

PART 3: RETURNING OFFICER

4. Returning Officer

- 4.1 Subject to rule 69, the returning officer for an election is to be appointed by the corporation.
- 4.2 Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

5. Staff

- 5.1 Subject to rule 69, the returning officer may appoint and pay such staff, including such technical advisers, as they consider necessary for the purposes of the election.

6. Expenditure

- 6.1 The corporation is to pay the returning officer:
- (a) any expenses incurred by that officer in the exercise of their functions under these rules,
 - (b) such remuneration and other expenses as the corporation may determine.

7. Duty of co-operation

- 7.1 The corporation is to co-operate with the returning officer in the exercise of their functions under these rules.

PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of election

- 8.1 The returning officer is to publish a notice of the election stating:
- (a) the constituency, or class within a constituency, for which the election is being held,
 - (b) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
 - (c) the details of any nomination committee that has been established by the corporation,
 - (d) the address and times at which nomination forms may be obtained;
 - (e) the address for return of nomination forms (including, where the return of nomination forms in an electronic format will be permitted, the e-mail address for such return) and the date and time by which they must be received by the returning officer,
 - (f) the date and time by which any notice of withdrawal must be received by the returning officer
 - (g) the contact details of the returning officer
 - (h) the date and time of the close of the poll in the event of a contest.

9. Nomination of candidates

- 9.1 Each candidate must nominate themselves on a single nomination form.
- 9.2 The returning officer:
- (a) is to supply any member of the corporation with a nomination form, and
 - (b) is to prepare a nomination form for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

10. Candidate's particulars

- 10.1 The nomination form must state the candidate's:
- (a) full name,

- (b) contact address in full (which should be a postal address although an e-mail address may also be provided for the purposes of electronic communication), and
- (c) constituency, or class within a constituency, of which the candidate is a member.

11. Declaration of interests

11.1 The nomination form must state:

- (a) any financial interest that the candidate has in the corporation, and
- (b) whether the candidate is a member of a political party and if so, which party, and if the candidate has no such interests, the paper must include a statement to that effect.

12. Declaration of eligibility

12.1 The nomination form must include a declaration made by the candidate:

- (a) that they are not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the Constitution; and,
- (b) for a member of the public constituency, of the particulars of their qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

13. Signature of candidate

13.1 The nomination form must be signed and dated by the candidate, in a manner prescribed by the returning officer, indicating that:

- (a) they wish to stand as a candidate,
- (b) their declaration of interests as required under rule 11, is true and correct, and
- (c) their declaration of eligibility, as required under rule 12, is true and correct.

13.2 Where the return of nomination forms in an electronic format is permitted, the returning officer shall specify the particular signature formalities (if any) that will need to be complied with by the candidate.

14. Decisions as to the validity of nomination

14.1 Where a nomination form is received by the returning officer in accordance with these rules, the candidate is deemed to stand for election unless and until the returning officer:

- (a) decides that the candidate is not eligible to stand,
- (b) decides that the nomination form is invalid,
- (c) receives satisfactory proof that the candidate has died, or
- (d) receives a written request by the candidate of their withdrawal from candidacy.

14.2 The returning officer is entitled to decide that a nomination form is invalid only on one of the following grounds:

- (a) that the paper is not received on or before the final time and date for return of nomination forms, as specified in the notice of the election,
- (b) that the paper does not contain the candidate's particulars, as required by rule 10;
- (c) that the paper does not contain a declaration of the interests of the candidate, as

- required by rule 11,
 - (d) that the paper does not include a declaration of eligibility as required by rule 12, or
 - (e) that the paper is not signed and dated by the candidate, if required by rule 13.
- 14.3 The returning officer is to examine each nomination form as soon as is practicable after he or she has received it and decide whether the candidate has been validly nominated.
- 14.4 Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination form, stating the reasons for their decision.
- 14.5 The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate's nomination form. If an e-mail address has been given in the candidate's nomination form (in addition to the candidate's postal address), the returning officer may send notice of the decision to that address.
- 15. Publication of statement of candidates**
- 15.1 The returning officer is to prepare and publish a statement showing the candidates who are standing for election.
- 15.2 The statement must show:
 - (a) the name, contact address (which shall be the candidate's postal address), and constituency or class within a constituency of each candidate standing, and
 - (b) the declared interests of each candidate standing,
 as given in their nomination form.
- 15.3 The statement must list the candidates standing for election in alphabetical order by surname.
- 15.4 The returning officer must send a copy of the statement of candidates and copies of the nomination forms to the corporation as soon as is practicable after publishing the statement.
- 16. Inspection of statement of nominated candidates and nomination forms**
- 16.1 The corporation is to make the statement of the candidates and the nomination forms supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.
- 16.2 If a member of the corporation requests a copy or extract of the statement of candidates or their nomination forms, the corporation is to provide that member with the copy or extract free of charge.
- 17. Withdrawal of candidates**
- 17.1 A candidate may withdraw from election on or before the date and time for withdrawal by candidates, by providing to the returning officer a written notice of withdrawal which is signed by the candidate and attested by a witness.
- 18. Method of election**
- 18.1 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the

Council of Governors, a poll is to be taken in accordance with Parts 5 and 6 of these rules.

- 18.2 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the Council of Governors, those candidates are to be declared elected in accordance with Part 7 of these rules.
- 18.3 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be Council of Governors, then:
- (a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and
 - (b) the returning officer may order a new election to fill any vacancy which remains unfilled, on a day appointed by him/her in consultation with the corporation unless the Council of Governors at a meeting agrees to co-option.

PART 5: CONTESTED ELECTIONS

19. Poll to be taken by ballot

- 19.1 The votes at the poll must be given by secret ballot.
- 19.2 The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.
- 19.3 The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 19.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.
- 19.4 The corporation may decide that voters within a constituency or class within a constituency for whom an e-mail address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.
- 19.5 Before the corporation decides, in accordance with rule 19.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:
- (a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:
 - (i) configured in accordance with these rules; and
 - (ii) will create an accurate internet voting record in respect of any voter who casts his or her vote using the internet voting system;
 - (b) if telephone voting to be a method of polling, the telephone voting system to be used for the purpose of the election is:
 - (i) configured in accordance with these rules; and
 - (ii) will create an accurate telephone voting record in respect of any voter who casts his or her vote using the telephone voting system;
 - (c) if text message voting is to be a method of polling, the text message voting system to

be used for the purpose of the election is:

- (i) configured in accordance with these rules; and
- (ii) will create an accurate text voting record in respect of any voter who casts his or her vote using the text message voting system.

20. The ballot paper

20.1 The ballot of each voter (including a voter who casts his or her ballot by an e-voting method of polling) is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.

20.2 Every ballot paper must specify:

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote by all available methods of polling, including the relevant voter's voter ID number if one or more e-voting methods of polling are available,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

20.3 Each ballot paper must have a unique identifier.

20.4 Each ballot paper must have features incorporated into it to prevent it from being reproduced.

21. The declaration of identity (public constituency)

21.1 The corporation shall require each voter who participates in an election for a public constituency to make a declaration confirming:

- (a) that the voter is the person:
 - (i) to whom the ballot paper was addressed, and/or
 - (ii) to whom the voter ID number contained within the e-voting information was allocated,
- (b) that they have not marked or returned any other voting information in the election, and
- (c) the particulars of their qualification to vote as a member of the constituency or class within the constituency for which the election is being held, ("declaration of identity") and
- (d) the corporation shall make such arrangements as it considers appropriate to facilitate the making and the return of a declaration of identity by each voter, whether by the completion of a paper form ("ID declaration form") or the use of an electronic method.

21.2 The voter must be required to return their declaration of identity with their ballot.

- 21.3 The voting information shall caution the voter that if the declaration of identity is not duly returned or is returned without having been made correctly, any vote cast by the voter may be declared invalid.

Action to be taken before the poll

22. List of eligible voters

- 22.1 The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 27 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.
- 22.2 The list is to include, for each member:
- (a) a postal address; and,
 - (b) the member's e-mail address, if this has been provided
- to which their voting information may, subject to rule 22.3, be sent.
- 22.3 The corporation may decide that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list.

23. Notice of poll

- 23.1 The returning officer is to publish a notice of the poll stating:
- (a) the name of the corporation,
 - (b) the constituency, or class within a constituency, for which the election is being held,
 - (c) the number of members of the Council of Governors to be elected from that constituency, or class with that constituency,
 - (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
 - (f) the methods of polling by which votes may be cast at the election by voters in a constituency or class within a constituency, as determined by the corporation in accordance with rule 19.3,
 - (g) the address for return of the ballot papers,
 - (h) the uniform resource locator (url) where, if internet voting is a method of polling, the polling website is located;
 - (i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located,
 - (j) the telephone number or telephone short code where, if text message voting is a method of polling, the text message voting facility is located,
 - (k) the date and time of the close of the poll,
 - (l) the address and final dates for applications for replacement voting information, and
 - (m) the contact details of the returning officer.

24. Issue of voting information by returning officer

- 24.1 Subject to rules 24.3 and 24.4, as soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following information by e-mail and/ or by post to each member of the corporation named in the list of eligible voters whom

the corporation determines in accordance with rule 19.3 and/ or rule 19.4 may cast their vote by an e-voting method of polling:

- (a) instructions on how to vote and how to make a declaration of identity (if required),
- (b) the voter's voter ID number,
- (c) information about each candidate standing for election, pursuant to rule 64 of these rules, or details of where this information is readily available on the internet or available in such other formats as the Returning Officer thinks appropriate, (d) contact details of the returning officer,

("e-voting information").

- 24.2 Subject to rule 24.3, as soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following information by post to each member of the corporation named in the list of eligible voters:

- (a) a ballot paper and ballot paper envelope,
- (b) the ID declaration form (if required),
- (c) information about each candidate standing for election, pursuant to rule 61 of these rules, and
- (d) a covering envelope;

("postal voting information").

- 24.3 The corporation may determine that any member of the corporation shall:

- (a) only be sent e-voting information; or
- (b) only be sent postal voting information; or
- (c) be sent both postal voting information (only if no e-mail) and e-voting information;

for the purposes of the poll.

- 24.4 If the corporation determines, in accordance with rule 22.3, that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list, then the returning officer shall only send that information by e-mail.

- 24.5 The voting information is to be sent to the postal address and/ or e-mail address for each member, as specified in the list of eligible voters.

25. Ballot paper envelope and covering envelope

- 25.1 The ballot paper envelope must have clear instructions to the voter printed on it, instructing the voter to seal the ballot paper inside the envelope once the ballot paper has been marked.

- 25.2 The covering envelope is to have:

- (a) the address for return of the ballot paper printed on it, and
- (b) pre-paid postage for return to that address.

- 25.3 There should be clear instructions, either printed on the covering envelope or elsewhere, instructing the voter to seal the following documents inside the covering envelope and return it to the returning officer –

- (a) the completed ID declaration form if required, and
- (b) the ballot paper envelope, with the ballot paper sealed inside it.

26. E-voting systems

- 26.1 If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as "the polling website").
- 26.2 If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as "the telephone voting facility").
- 26.3 If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as "the text message voting facility").
- 26.4 The returning officer shall ensure that the polling website and internet voting system provided will:
- (a) require a voter to:
 - (i) enter their voter ID number; and
 - (ii) where the election is for a public constituency, make a declaration of identity; in order to be able to cast their vote;
 - (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
 - (iv) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (v) instructions on how to vote and how to make a declaration of identity,
 - (vi) the date and time of the close of the poll, and
 - (vii) the contact details of the returning officer;
 - (c) prevent a voter from voting for more candidates than they are entitled to at the election;
 - (d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of-
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote,
 - (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this; and
 - (f) prevent any voter from voting after the close of poll.
- 26.5 The returning officer shall ensure that the telephone voting facility and telephone voting system provided will:

- (a) require a voter to
 - (i) enter his or her voter ID number in order to be able to cast their vote; and
 - (ii) where the election is for a public constituency, make a declaration of identity;
- (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,
 - (iv) instructions on how to vote and how to make a declaration of identity,
 - (v) the date and time of the close of the poll, and
 - (vi) the contact details of the returning officer;
- (c) prevent a voter from voting for more candidates than they are entitled to at the election;
- (d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (f) prevent any voter from voting after the close of poll.

26.6 The returning officer shall ensure that the text message voting facility and text messaging voting system provided will:

- (a) require a voter to:
 - (i) provide their voter ID number; and
 - (ii) where the election is for a public constituency, make a declaration of identity;

in order to be able to cast their vote;

- (b) prevent a voter from voting for more candidates than they are entitled to at the election;
- (c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote
- (d) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (e) prevent any voter from voting after the close of poll.

*The poll***27. Eligibility to vote**

- 27.1 An individual who becomes a member of the corporation on or before the closing date for the receipt of nominations by candidates for the election, is eligible to vote in that election.

28. Voting by persons who require assistance

- 28.1 The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

- 28.2 Where the returning officer receives a request from a voter who requires assistance to vote, the returning officer is to make such arrangements as they consider necessary to enable that voter to vote.

29. Spoilt ballot papers and spoilt text message votes

- 29.1 If a voter has dealt with his or her ballot paper in such a manner that it cannot be accepted as a ballot paper (referred to as a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.

- 29.2 On receiving an application, the returning officer is to obtain the details of the unique identifier on the spoilt ballot paper, if they can obtain it.

- 29.3 The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless they:

- (a) are satisfied as to the voter’s identity; and
- (b) have ensured that the completed ID declaration form, if required, has not been returned.

- 29.4 After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter on a list (“the list of spoilt ballot papers”):

- (a) the name of the voter, and
- (b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and
- (c) the details of the unique identifier of the replacement ballot paper.

- 29.5 If a voter has dealt with their text message vote in such a manner that it cannot be accepted as a vote (referred to as a “spoilt text message vote”), that voter may apply to the returning officer for a replacement voter ID number.

- 29.6 On receiving an application, the returning officer is to obtain the details of the voter ID number on the spoilt text message vote, if they can obtain it.

- 29.7 The returning officer may not issue a replacement voter ID number in respect of a spoilt text message vote unless they are satisfied as to the voter’s identity.

- 29.8 After issuing a replacement voter ID number in respect of a spoilt text message vote, the returning officer shall enter on a list (“the list of spoilt text message votes”):

- (a) the name of the voter, and

- (b) the details of the voter ID number on the spoilt text message vote (if that officer was able to obtain it), and
- (e) the details of the replacement voter ID number issued to the voter.

30. Lost voting information

- 30.1 Where a voter has not received their voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.
- 30.2 The returning officer may not issue replacement voting information in respect of lost voting information unless they:
 - (a) are satisfied as to the voter's identity,
 - (b) have no reason to doubt that the voter did not receive the original voting information,
 - (c) have ensured that no declaration of identity, if required, has been returned.
- 30.3 After issuing replacement voting information in respect of lost voting information, the returning officer shall enter on a list ("the list of lost ballot documents"):
 - (a) the name of the voter
 - (b) the details of the unique identifier of the replacement ballot paper, if applicable, and
 - (c) the voter ID number of the voter.

31. Issue of replacement voting information

- 31.1 If a person applies for replacement voting information under rule 29 or 30 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 29.3 or 30.2, they have also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.
- 31.2 After issuing replacement voting information under this rule, the returning officer shall enter on a list ("the list of tendered voting information"):
 - (a) the name of the voter,
 - (b) the unique identifier of any replacement ballot paper issued under this rule;
 - (c) the voter ID number of the voter.

32. ID declaration form for replacement ballot papers (public constituency)

- 32.1 In respect of an election for a public constituency an ID declaration form must be issued with each replacement ballot paper requiring the voter to make a declaration of identity.

Polling by internet, telephone or text

33. Procedure for remote voting by internet

- 33.1 To cast their vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.
- 33.2 When prompted to do so, the voter will need to enter his or her voter ID number.
- 33.3 If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election in which the voter is eligible to vote.
- 33.4 To cast their vote, the voter will need to key in a mark on the screen opposite the particulars of the candidate or candidates for whom they wish to cast their vote.

- 33.5 The voter will not be able to access the internet voting system for an election once their vote at that election has been cast.

34. Voting procedure for remote voting by telephone

- 34.1 To cast their vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.
- 34.2 When prompted to do so, the voter will need to enter their voter ID number using the keypad.
- 34.3 If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.
- 34.4 When prompted to do so the voter may then cast their vote by keying in the numerical voting code of the candidate or candidates, for whom they wish to vote.
- 34.5 The voter will not be able to access the telephone voting facility for an election once their vote at that election has been cast.

35. Voting procedure for remote voting by text message

- 35.1 To cast their vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.
- 35.2 The text message sent by the voter must contain their voter ID number and the numerical voting code for the candidate or candidates, for whom they wish to vote.
- 35.3 The text message sent by the voter will need to be structured in accordance with the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

Procedure for receipt of envelopes, internet votes, telephone votes and text message votes

36. Receipt of voting documents

- 36.1 Where the returning officer receives:
- (a) a covering envelope, or
 - (b) any other envelope containing an ID declaration form if required, a ballot paper envelope, or a ballot paper,
- before the close of the poll, that officer is to open it as soon as is practicable; and rules 37 and 38 are to apply.
- 36.2 The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 37 and 38, but must make arrangements to ensure that no person obtains or communicates information as to:
- (a) the candidate for whom a voter has voted, or
 - (b) the unique identifier on a ballot paper.
- 36.3 The returning officer must make arrangements to ensure the safety and security of the ballot

papers and other documents.

37. Validity of votes

- 37.1 A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.
- 37.2 Where the returning officer is satisfied that rule 37.1 has been fulfilled, they are to:
- (a) put the ID declaration form if required in a separate packet, and
 - (b) put the ballot paper aside for counting after the close of the poll.
- 37.3 Where the returning officer is not satisfied that rule 37.1 has been fulfilled, they are to:
- (a) mark the ballot paper “disqualified”,
 - (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
 - (c) record the unique identifier on the ballot paper on a list of disqualified documents (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.
- 37.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.
- 37.5 Where the returning officer is satisfied that rule 37.4 has been fulfilled, they are to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.
- 37.6 Where the returning officer is not satisfied that rule 37.4 has been fulfilled they are to:
- (a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
 - (b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) on the list of disqualified documents; and
 - (c) place the document or documents in a separate packet.

38. Declaration of identity but no ballot paper (public constituency)¹

- 38.1 Where the returning officer receives an ID declaration form if required but no ballot paper, the returning officer is to:
- (a) mark the ID declaration form “disqualified”,
 - (b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper, and
 - (c) place the ID declaration form in a separate packet.

39. De-duplication of votes

- 39.1 Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.
- 39.2 If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:

¹ It should not be possible, technically, to make a declaration of identity electronically without also submitting a vote.

- (a) only accept as duly returned the first vote received that was cast using the relevant voter ID number; and
- (b) mark as “disqualified” all other votes that were cast using the relevant voter ID number

39.3 Where a ballot paper is disqualified under this rule the returning officer shall:

- (a) mark the ballot paper “disqualified”,
- (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
- (c) record the unique identifier and the voter ID number on the ballot paper on the list of disqualified documents;
- (d) place the document or documents in a separate packet; and
- (e) disregard the ballot paper when counting the votes in accordance with these rules.

39.4 Where an internet voting record, telephone voting record or text voting record is disqualified under this rule the returning officer shall:

- (a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
- (b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) on the list of disqualified documents;
- (c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet, and
- (d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

40. Sealing of packets

40.1 As soon as is possible after the close of the poll and after the completion of the procedure under rules 37 and 38, the returning officer is to seal the packets containing:

- (a) the disqualified documents, together with the list of disqualified documents inside it,
- (b) the ID declaration forms, if required,
- (c) the list of spoilt ballot papers and the list of spoilt text message votes,
- (d) the list of lost ballot documents,
- (e) the list of eligible voters, and
- (f) the list of tendered voting information

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

PART 6: COUNTING THE VOTES

STV41. Interpretation of Part 6

STV41.1 In Part 6 of these rules:

“ballot document” means a ballot paper, internet voting record, telephone voting record or text voting record.

“continuing candidate” means any candidate not deemed to be elected, and not excluded,

“count” means all the operations involved in counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of the excluded candidates,

“deemed to be elected” means deemed to be elected for the purposes of counting of votes but without prejudice to the declaration of the result of the poll,

“mark” means a figure, an identifiable written word, or a mark such as “X”,

“non-transferable vote” means a ballot document:

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule STV49,

“preference” as used in the following contexts has the meaning assigned below:

- (a) *“first preference”* means the figure “1” or any mark or word which clearly indicates a first (or only) preference,
- (b) *“next available preference”* means a preference which is the second, or as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored); and
- (c) in this context, a *“second preference”* is shown by the figure “2” or any mark or word which clearly indicates a second preference, and a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on,

“quota” means the number calculated in accordance with rule STV46,

“surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of both) exceeds the quota; but references in these rules to the transfer of the surplus means the transfer (at a transfer value) of all transferable ballot documents from the candidate who has the surplus,

“stage of the count” means:

- (a) the determination of the first preference vote of each candidate,
- (b) the transfer of a surplus of a candidate deemed to be elected, or
- (c) the exclusion of one or more candidates at any given time,

“transferable vote” means a ballot document on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate,

“transferred vote” means a vote derived from a ballot document on which a second or subsequent preference is recorded for the candidate to whom that ballot document has been transferred, and

“transfer value” means the value of a transferred vote calculated in accordance with rules STV47.4 or STV47.7.

42. Arrangements for counting of the votes

- 42.1 The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.
- 42.2 The returning officer may make arrangements for any votes to be counted using vote counting software where:
- (a) the Board of Directors and the Council of Governors of the corporation have approved:
 - (i) the use of such software for the purpose of counting votes in the relevant election, and
 - (ii) a policy governing the use of such software, and
 - (b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. The count

- 43.1 The returning officer is to:
- (a) count and record the number of:
 - (i) ballot papers that have been returned; and
 - (ii) the number of internet voting records, telephone voting records and/or text voting records that have been created, and
 - (b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(ii) where vote counting software is being used.
- 43.2 The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.
- 43.3 The returning officer is to proceed continuously with counting the votes as far as is practicable.

STV44. Rejected ballot papers and rejected text voting records

- STV44.1 Any ballot paper:
- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
 - (b) on which the figure "1" standing alone is not placed so as to indicate a first preference for any candidate,
 - (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
 - (d) which is unmarked or rejected because of uncertainty,
- shall be rejected and not counted, but the ballot paper shall not be rejected by reason only of carrying the words "one", "two", "three" and so on, or any other mark instead of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.
- STV44.2 The returning officer is to endorse the word "rejected" on any ballot paper which

under this rule is not to be counted.

STV44.3 Any text voting record:

- (a) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,
- (b) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (c) which is unmarked or rejected because of uncertainty,

shall be rejected and not counted, but the text voting record shall not be rejected by reason only of carrying the words “one”, “two”, “three” and so on, or any other mark instead of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.

STV44.4 The returning officer is to endorse the word “rejected” on any text voting record which under this rule is not to be counted.

STV44.5 The returning officer is to draw up a statement showing the number of ballot papers rejected by them under each of the subparagraphs (a) to (d) of rule STV44.1 and the number of text voting records rejected by him/her under each of the sub-paragraphs (a) to (c) of rule STV44.3.

STV45. First stage

STV45.1 The returning officer is to sort the ballot documents into parcels according to the candidates for whom the first preference votes are given.

STV45.2 The returning officer is to then count the number of first preference votes given on ballot documents for each candidate, and is to record those numbers.

STV45.3 The returning officer is to also ascertain and record the number of valid ballot documents.

STV46. The quota

STV46.1 The returning officer is to divide the number of valid ballot documents by a number exceeding by one the number of members to be elected.

STV46.2 The result, increased by one, of the division under rule STV46.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).

STV46.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules STV47.1 to STV47.3 has been complied with.

STV47. Transfer of votes

STV47.1 Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot documents on which first preference votes are given for that candidate into sub- parcels so that they are grouped:

- (a) according to next available preference given on those ballot documents for any continuing candidate, or

- (b) where no such preference is given, as the sub-parcel of non-transferable votes.
- STV47.2 The returning officer is to count the number of ballot documents in each parcel referred to in rule STV47.1.
- STV47.3 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.1(a) to the candidate for whom the next available preference is given on those ballot documents.
- STV47.4 The vote on each ballot document transferred under rule STV47.3 shall be at a value ("the transfer value") which:
- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and
 - (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot documents on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).
- STV47.5 Where at the end of any stage of the count involving the transfer of ballot documents, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballot documents in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped:
- (a) according to the next available preference given on those ballot documents for any continuing candidate, or
 - (b) where no such preference is given, as the sub-parcel of non-transferable votes.
- STV47.6 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.5(a) to the candidate for whom the next available preference is given on those ballot documents.
- STV47.7 The vote on each ballot document transferred under rule STV47.6 shall be at:
- (a) a transfer value calculated as set out in rule STV47.4(b), or
 - (b) at the value at which that vote was received by the candidate from whom it is now being transferred,
- whichever is the less.
- STV47.8 Each transfer of a surplus constitutes a stage in the count.
- STV47.9 Subject to rule STV47.10, the returning officer shall proceed to transfer transferable ballot documents until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.
- STV47.10 Transferable ballot documents shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are:
- (a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

- (b) less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.

STV47.11 This rule does not apply at an election where there is only one vacancy.

STV48. Supplementary provisions on transfer

STV48.1 If, at any stage of the count, two or more candidates have surpluses, the transferable ballot documents of the candidate with the highest surplus shall be transferred first, and if:

- (a) The surpluses determined in respect of two or more candidates are equal, the transferable ballot documents of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and
- (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable ballot documents of the candidate on whom the lot falls shall be transferred first.

STV48.2 The returning officer shall, on each transfer of transferable ballot documents under rule STV47:

- (a) record the total value of the votes transferred to each candidate,
- (b) add that value to the previous total of votes recorded for each candidate and record the new total,
- (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and
- (d) compare:
 - (i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

STV48.3 All ballot documents transferred under rule STV47 or STV49 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that ballot document or, as the case may be, all the ballot documents in that sub-parcel.

STV48.4 Where a ballot document is so marked that it is unclear to the returning officer at any stage of the count under rule STV47 or STV49 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot document as a non-transferable vote; and votes on a ballot document shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

STV49. Exclusion of candidates

STV49.1 If:

- (a) all transferable ballot documents which under the provisions of rule STV47 (including that rule as applied by rule STV49.11) and this rule are required to

- be transferred, have been transferred, and
- (b) subject to rule STV50, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where rule STV49.12 applies, the candidates with the then lowest votes).

- STV9.2 The returning officer shall sort all the ballot documents on which first preference votes are given for the candidate or candidates excluded under rule STV49.1 into two sub-parcels so that they are grouped as:
- (a) ballot documents on which a next available preference is given, and
 - (b) ballot documents on which no such preference is given (thereby including ballot documents on which preferences are given only for candidates who are deemed to be elected or are excluded).
- STV49.3 The returning officer shall, in accordance with this rule and rule STV48, transfer each sub-parcel of ballot documents referred to in rule STV49.2 to the candidate for whom the next available preference is given on those ballot documents.
- STV49.4 The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.
- STV49.5 If, subject to rule STV50, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable ballot documents, if any, which had been transferred to any candidate excluded under rule STV49.1 into sub- parcels according to their transfer value.
- STV49.6 The returning officer shall transfer those ballot documents in the sub-parcel of transferable ballot documents with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those ballot documents (thereby passing over candidates who are deemed to be elected or are excluded).
- STV49.7 The vote on each transferable ballot document transferred under rule STV49.6 shall be at the value at which that vote was received by the candidate excluded under rule STV49.1.
- STV9.8 Any ballot documents on which no next available preferences have been expressed shall be set aside as non-transferable votes.
- STV49.9 After the returning officer has completed the transfer of the ballot documents in the sub-parcel of ballot documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under rule STV49.1.
- STV49.10 The returning officer shall after each stage of the count completed under this rule:
- (a) record:
 - (i) the total value of votes, or
 - (ii) the total transfer value of votes transferred to each candidate,

- (b) add that total to the previous total of votes recorded for each candidate and record the new total,
- (c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and
- (d) compare:
 - (i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

STV49.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules STV47.5 to STV47.10 and rule STV48.

STV49.12 Where the total of the votes of the two or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the returning officer shall in one operation exclude such two or more candidates.

STV49.13 If when a candidate has to be excluded under this rule, two or more candidates each have the same number of votes and are lowest:

- (a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and
- (b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

STV50. Filling of last vacancies

STV50.1 Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

STV50.2 Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.

STV50.3 Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

STV51. Order of election of candidates

STV51.1 The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule STV47.10.

STV51.2 A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.

STV51.3 Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such

candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

- STV51.4 Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

PART 7: FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

Council of Governors

STV52. Declaration of result for contested elections

- STV52.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:
- (a) declare the candidates who are deemed to be elected under Part 6 of these rules as elected,
 - (b) give notice of the name of each candidate who they have declared elected:
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust by section 33(4) of the 2006 Act, to the chair of the NHS Trust, or
 - (ii) in any other case, to the chair of the corporation, and
 - (c) give public notice of the name of each candidate who he or she has declared elected.

- STV52.2 The returning officer is to make:
- (a) the number of first preference votes for each candidate whether elected or not,
 - (b) any transfer of votes,
 - (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
 - (d) the order in which the successful candidates were elected, and
 - (e) the number of rejected ballot papers under each of the headings in rule STV44.1,
 - (f) the number of rejected text voting records under each of the headings in rule STV44.3,

available on request.

53. Declaration of result for uncontested elections

- 53.1 In an uncontested election, the returning officer is to as soon as is practicable after final day for the delivery of notices of withdrawals by candidates from the election:

- (a) declare the candidate or candidates remaining validly nominated to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected to the chair of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

PART 8: DISPOSAL OF DOCUMENTS

54. Sealing up of documents relating to the poll

54.1 On completion of the counting at a contested election, the returning officer is to seal up the following documents in separate packets:

- (a) the counted ballot papers, internet voting records, telephone voting records and text voting records,
- (b) the ballot papers and text voting records endorsed with “rejected in part”,
- (c) the rejected ballot papers and text voting records, and
- (d) the statement of rejected ballot papers and the statement of rejected text voting records,

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

54.2 The returning officer must not open the sealed packets of:

- (a) the disqualified documents, with the list of disqualified documents inside it,
- (b) the list of spoilt ballot papers and the list of spoilt text message votes,
- (c) the list of lost ballot documents, and
- (d) the list of eligible voters,

or access the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage.

54.3 The returning officer must endorse on each packet a description of:

- (a) its contents,
- (b) the date of the publication of notice of the election,
- (c) the name of the corporation to which the election relates, and
- (d) the constituency, or class within a constituency, to which the election relates.

55. Delivery of documents

55.1 Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 56, the returning officer is to forward them to the chair of the corporation.

56. Forwarding of documents received after close of the poll

56.1 Where:

- (a) any voting documents are received by the returning officer after the close of the poll, or
- (b) any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or
- (c) any applications for replacement voting information are made too late to enable new voting information to be issued,

the returning officer is to put them in a separate packet, seal it up, and endorse and forward it to the chair of the corporation.

57. Retention and public inspection of documents

57.1 The corporation is to retain the documents relating to an election that are forwarded to the chair by the returning officer under these rules for one year, and then, unless otherwise directed by the board of directors of the corporation, cause them to be destroyed.

57.2 With the exception of the documents listed in rule 58.1, the documents relating to an

election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

- 57.3 A person may request a copy or extract from the documents relating to an election that are held by the corporation, and the corporation is to provide it, and may impose a reasonable charge for doing so.

58. Application for inspection of certain documents relating to an election

- 58.1 The corporation may not allow:

- (a) the inspection of, or the opening of any sealed packet containing –
 - (i) any rejected ballot papers, including ballot papers rejected in part,
 - (ii) any rejected text voting records, including text voting records rejected in part,
 - (iii) any disqualified documents, or the list of disqualified documents,
 - (iv) any counted ballot papers, internet voting records, telephone voting records or text voting records, or
 - (v) the list of eligible voters, or
- (b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage, by any person without the consent of the board of directors of the corporation.

- 58.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 58.1, and the board of directors of the corporation may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

- 58.3 The board of directors of the corporation's consent may be on any terms or conditions that it thinks necessary, including conditions as to –
- (a) persons,
 - (b) time,
 - (c) place and mode of inspection,
 - (d) production or opening,

and the corporation must only make the documents available for inspection in accordance with those terms and conditions.

- 58.4 On an application to inspect any of the documents listed in rule 58.1 the board of directors of the corporation must:
- (a) in giving its consent, and
 - (b) in making the documents available for inspection

ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

- (i) that their vote was given, and
- (ii) that the Regulator has declared that the vote was invalid.

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

STV59. Countermand or abandonment of poll on death of candidate

- STV59.1 If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot documents which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot documents which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

STV59.2 The ballot documents which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot documents pursuant to rule 54.1(a).

PART 10: ELECTION EXPENSES AND PUBLICITY

Election expenses

60. Election expenses

60.1 Any expenses incurred, or payments made, for the purposes of an election which contravene this Part are an electoral irregularity, which may only be questioned in an application made to NHS Improvement/England under Part 11 of these rules.

61. Expenses and payments by candidates

61.1 A candidate may not incur any expenses or make a payment (of whatever nature) for the purposes of an election, other than expenses or payments that relate to:

- (a) personal expenses,
- (b) travelling expenses, and expenses incurred while living away from home, and
- (c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of £100.

62. Election expenses incurred by other persons

62.1 No person may:

- (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
- (b) give a candidate or their family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

62.2 Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 63 and 64.

Publicity

63. Publicity about election by the corporation

63.1 The corporation may:

- (a) compile and distribute such information about the candidates, and
- (b) organise and hold such meetings, whether online or face-to-face, to enable the candidates to speak and respond to questions, or to themselves gain further information.

as it considers necessary.

- 63.2 Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 64, must be:
- (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

- 63.3 Where the corporation proposes to hold a meeting (face-to-face or online) to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

64. Information about candidates for inclusion with voting information

- 64.1 The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 24 of these rules.

- 64.2 The information must consist of:
- (a) a statement submitted by the candidate of no more than 250 words,
 - (b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility ("numerical voting code"), and

65. Meaning of "for the purposes of an election"

- 65.1 In this Part, the phrase "for the purposes of an election" means with a view to, or otherwise in connection with, promoting or procuring a candidate's election, including the prejudicing of another candidate's electoral prospects; and the phrase "for the purposes of a candidate's election" is to be construed accordingly.

- 65.2 The provision by any individual of their own services voluntarily, in their own time, and free of charge is not to be considered an expense for the purposes of this Part.

PART 11: QUESTIONING ELECTIONS AND THE CONSEQUENCE OF IRREGULARITIES

66. Application to question an election

- 66.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to Monitor or successor body (NHS England) for the purpose of seeking a referral to the independent election arbitration panel (IEAP).

- 66.2 An application may only be made once the outcome of the election has been declared by the returning officer.

- 66.3 An application may only be made to Monitor or successor body (NHS England) by:
- (a) a person who voted at the election or who claimed to have had the right to vote, or
 - (b) a candidate, or a person claiming to have had a right to be elected at the election.

- 66.4 The application must:

- (a) describe the alleged breach of the rules or electoral irregularity, and
- (b) be in such a form as the independent panel may require.

- 66.5 The application must be presented in writing within 21 days of the declaration of the result of the election. Monitor will refer the application to the independent election arbitration panel appointed by the Regulator.
- 66.6 If the independent election arbitration panel requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- 66.7 The Regulator shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.
- 66.8 The determination by the IEAP shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.
- 66.9 The IEAP may prescribe rules of procedure for the determination of an application including costs.

PART 12: MISCELLANEOUS

67. Secrecy

- 67.1 The following persons:

- (a) the returning officer,
- (b) the returning officer's staff,

must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to:

- (i) the name of any member of the corporation who has or has not been given voting information or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the voter ID number allocated to any voter,
- (iv) the candidate(s) for whom any member has voted.

- 67.2 No person may obtain or attempt to obtain information as to the candidate(s) for whom a voter is about to vote or has voted, or communicate such information to any person at any time, including the unique identifier on a ballot paper given to a voter or the voter ID number allocated to a voter.

- 67.3 The returning officer is to make such arrangements as they think fit to ensure that the individuals who are affected by this provision are aware of the duties it imposes.

68. Prohibition of disclosure of vote

- 68.1 No person who has voted at an election shall, in any legal or other proceedings to question the election, be required to state for whom they have voted.

69. Disqualification

- 69.1 A person may not be appointed as a returning officer, or as staff of the returning officer pursuant to these rules, if that person is:

- (a) a member of the corporation,
- (b) an employee of the corporation,
- (c) a director of the corporation, or
- (d) employed by or on behalf of a person who has been nominated for election.

70. Delay in postal service through industrial action or unforeseen event

70.1 If industrial action, or some other unforeseen event, results in a delay in:

- (a) the delivery of the documents in rule 24, or
- (b) the return of the ballot papers,

the returning officer may extend the time between the publication of the notice of the poll and the close of the poll by such period as they consider appropriate.

ANNEX 5– ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

1. Council of Governors: Terms of Office (see also Section 14)

a Governor shall:

- 1.1 be elected or appointed for a term of three years;
- 1.2 be eligible for re-election or re-appointment at the end of that term; but may not serve as a Governor for more than a total of 3 terms;
- 1.3 shall cease to hold office if:
 - 1.3.1 in the case of an Elected Governor they cease to be a member of the constituency they represent or where relevant, the class of the constituency they represent and in the case of an Appointed Governor, the sponsoring organisation withdraws its sponsorship of them.
 - 1.3.2 their term of office is terminated in accordance with paragraph 3 below and/or they are disqualified from or are otherwise ineligible to hold office as a Governor; or
 - 1.3.3 they resign by notice in writing to the Trust.
- 1.4 A Governor shall cease to hold office on death.

2. Council of Governors: Eligibility to be on the Council of Governors

- 2.1 A person shall not be eligible to become or continue in office as a Governor if:
 - 2.1.1 In the case of an elected governor they cease to be eligible to be a Member of the constituency or class within the constituency which they represent
 - 2.1.2 in the case of an Appointed Governor, the appointing organisation withdraws its sponsorship of them;
 - 2.1.3 any of the grounds contained in paragraph 17 of the Constitution apply to them;
 - 2.1.4 they have within the preceding two years been lawfully dismissed otherwise than by reason of redundancy, by the coming to the end of a fixed term contract, by retirement or through ill health from any paid employment with a Health Service Body;
 - 2.1.5 they are a person whose term of office as the Chair or as a member or director of a Health Service Body has been terminated on the grounds that their continuance in office is no longer in the best interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
 - 2.1.6 they are a person who by reference to information revealed by a Disclosure and Barring Service (DBS) check is considered by the Trust to be inappropriate

on the grounds that their appointment might adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute ;

- 2.1.7 they have failed to make, or have falsely made, any declaration as required to be made under Section 60 of the 2006 Act or have spoken or voted in a meeting on a matter in which they have direct or indirect pecuniary or non-pecuniary interest and they are judged to have acted so by a majority of the Council of Governors voting at a meeting;
- 2.1.8 they are subject to a direction made under section 142 (prohibition from teaching) of the Education Act 2002 (as amended);
- 2.1.9 They are a person who is the subject of a disqualification order made under the company Directors Disqualification Act 1986;
- 2.1.10 The Regulator has exercised its powers to remove them as a Governor of the Trust or has suspended them from office or has disqualified them from holding office as a Governor of the Trust for a specified period or the Regulator has exercised any of those powers in relation to them on any other occasion whether in relation to DBTH or some other NHS Foundation Trust;
- 2.1.11 they have received a written warning from the Trust for verbal and/or physical abuse towards Trust staff in the preceding 10 years;
- 2.1.12 they have at any time been placed on the registers of Schedule 1 Offenders pursuant to the Sexual Offences Act 2003 (as amended) and/or the Children and Young Person's Act 1933 to 1969 (as amended);
- 2.1.13 they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
- 2.1.14 their term of office is terminated pursuant to paragraph 3 below;
- 2.1.15 they are a Member of a Staff Class and any professional registration relevant to their eligibility to be a Member of that Staff Class has been suspended for a continuous period of more than six 6 months;
- 2.1.16 they are a person incapable by reason of mental disorder, illness or injury in managing and administering their property and/or affairs;
- 2.1.17 They are a person who is an immediate family member of a Director or Governor
- 2.1.18 they are a person who has refused without reasonable cause to undertake training which the trust and /or the Council of Governors requires Governors to undertake;
- 2.1.19 They are a person who has failed to sign and deliver to the Company Secretary a statement form required by the Trust confirming acceptance of the Governors' Code of Conduct
- 2.1.20 the relevant organisation which they represent ceases to exist;

- 2.2 Where a person has been elected or appointed to be a Governor and they become disqualified from that appointment they shall notify the Company Secretary in writing of such disqualification as soon as practicable and in any event within 14 days of first becoming aware of those matters which rendered them disqualified or removed.
- 2.3 If it comes to the notice of the Company Secretary that a Governor is disqualified, the Company Secretary shall immediately declare the Governor disqualified and shall give them notice in writing to that effect as soon as practicable.
- 2.4 Upon the giving of notice under paragraphs 2.2 and 2.3 above, that person's tenure of office as a Governor shall thereupon be terminated and they shall cease to be a Governor and their name shall be removed from the Register of Governors.
- 2.5 If a complaint is received against a member of the governing body it shall follow the same process as members of the Trust;
 - 2.5.1

3. Council of Governors: Termination of Tenure

- 3.1 A Governor's term of office shall be terminated:
 - 3.1.1 by the Governor giving notice in writing to the Company Secretary of their resignation from office at any time during that term of office;
 - 3.1.2 by the Trust if it becomes aware of the Governors ineligibility to continue in office for any of the previously stated reasons;
 - 3.1.3 by the Council of Governors if they have failed to attend two consecutive meetings of the Council of Governors unless within one month of the second meeting, the Council of Governors is satisfied that:
 - (a) the absence was due to reasonable cause; and
 - (b) the Governor will resume attendance at meetings of the Council of Governors within such period as it considers reasonable.
 - 3.1.4 if the Council of Governors resolves to terminate their term of office for reasonable cause on the grounds that in the reasonable opinion of the majority of Governors present and voting at a meeting of the Council of Governors that their continuing as a Governor would or would be likely to:
 - (a) prejudice the ability of the Trust to fulfil its principal purpose or of its purposes under this Constitution or otherwise to discharge its duties and functions; or
 - (b) prejudice the Trust's work with other persons or body with whom it is engaged or may be engaged in the provision of goods and services; or
 - (c) adversely affect public confidence in the goods and services provided by the Trust; or
 - (d) otherwise bring the Trust into disrepute or is detrimental to the interest of the Trust; or

- (e) it would not be in the best interests of the Trust for that person to continue in office as a Governor; or
 - (f) the Governor is a vexatious or persistent litigant or complainant with regard to the Trust's affairs and their continuance in office would not be in the best interests of the Trust; or
 - (g) They have failed or refused to undertake and/or satisfactorily complete any training which the Council of Governors has required them to undertake in their capacity as a Governor by a date six months from the date of their election or appointment; or from a date when they have been asked to undertake additional training or development for any reason;
 - (h) Their conduct as a Governor has failed to comply and support in a material way with the values and principles of the National Health Service or the Trust, and the Constitution; or
 - (i) They have committed a material breach of any code of conduct applicable to Governors of the Trust and/or the Governors Standing Orders;
- 3.2 Upon a Governor resigning under paragraph 3.1.1 above or upon the Council of Governors resolving to terminate a Governor's tenure of office in accordance with the above provisions, that Governor shall cease to be a Governor and their name shall be forthwith removed from the Register of Governors.
- 3.3 A Governor who resigns or whose tenure of office is terminated under this paragraph 3 shall not be eligible to stand for re-election for a period of 3 years from the date of their resignation or removal from office. Any re-election would take into account time served as a Governor so that a maximum term would not exceed nine years.
- 3.4 Where a Governor's membership of the Council of Governors ceases for one of the reasons set out above, Elected Governors shall be replaced in accordance with paragraphs 4.1 to 4.4 below.

4. Council of Governors Vacancies

Where a vacancy arises on the Council of Governors for any reason other than expiry of a term of office, the following provisions apply:

- 4.1 In the case of an Elected Governor, where a vacancy arises within 12 months of the election then the candidate who secured the next highest number of votes for that Constituency will be appointed. In the case of Appointed Governors, the Trust shall invite the relevant appointing body to appoint a new Governor to hold office for the remainder of the term of office in accordance with the processes referred to in Annex 3 within 30 days of the vacancy having arisen.
- 4.2 If the vacancy arises during the last 11 months of office, the office will remain vacant until it is filled at the next scheduled election.
- 4.3 If a vacancy arises at any other time it will be filled at the next scheduled election, in accordance with the Election Scheme.

- 4.4 No defect in the election or appointment of a Governor nor any deficiency in the composition of the Council of Governors shall affect the validity of any act or decision of the Council of Governors.

5. Council of Governors: Role and Responsibilities of Governors

- 5.1 The general duties of the Council of Governors are:

5.1.1 At a general meeting:

- (a) To appoint or remove the Chair and the other non-Executive Directors. The removal of a Non-Executive Director requires the approval of three quarters of the members of the Council of Governors.
- (b) To decide the remuneration and allowances, and the other terms and conditions of office of the Chair and the Non-Executive Directors;
- (c) To appoint or remove the Auditors
- (d) To be presented the annual accounts, any report of the Auditor on them and the Annual Report;
- (e) To consider resolutions to remove a governor or a member pursuant to paragraph 17 of this constitution.
- (f) To consider and give/withhold approval for applications for a merger, acquisition, separation or dissolution. Approval requires approval; of more than half the Council of Governors.
- (g) To consider and give/withhold approval for the Trust to enter a significant Transaction. Approval requires the approval of more than half of the members of the Council of Governors of the Trust present and voting at a meeting of the Council of Governors.

5.1.2 At a general meeting or otherwise

- (a) Approve an appointment of the Chief Executive. Approval requires the approval of more than half of the Council of Governors present and voting at the meeting.
- (b) Give the views of the Council of Governors to the Directors for the purpose of the preparation (by the Directors) of the Forward Plan in respect of each Financial Year to be given to the Regulator.

- 5.2 The Council of Governors and each Governor shall act in the best interests of the Trust at all times and with proper regard to the provisions of the NHS Foundation Trust Code of Governance and any code of conduct for the Council of Governors.
- 5.3 Subject to the requirements specified above, each Governor shall exercise their own skill and judgement in their conduct of the Trust's affairs and shall in their stewardship of the Trust's affairs bring an appropriate perspective of the constituency or organisation by which they were elected or appointed.
- 5.4 The general duties of the Council of Governors are;

- 5.4.1 to hold the Non-Executive Directors to individually and collectively to account for the performance of the Board of Directors;
- 5.4.2 to represent the interests of the Trust as a whole and the interests of the public.

6. Council of Governors: Meetings

- 6.1 The Council of Governors shall hold not less than 3 general meetings each financial year.
- 6.2 The Council of Governors may appoint sub-committees, consisting of its members, which are relevant and proportionate, to advise and assist it in the discharge of its functions. The outcomes of such committees will be in the form of recommendations to be presented to the Council of Governors. Recommendations presented to the Council of Governors therefore provide a second layer of oversight on a particular matter of interest by governor peers.

7. Council of Governors: Declarations

- 7.1 A Member of a Public Constituency standing for election as Governor must make a declaration for the purposes of Section 60 of the 2006 Act in the form specified below stating the particulars of his qualification to vote as a Member and that they are not prevented from being a member of the Council of Governors by virtue of any provisions of this Constitution.

The specified form of declaration shall be set out on the Nomination Form referred to in the Election Scheme.

8. Council of Governors: Lead Governor

- 8.1 No person may serve as the Lead Governor for more than a total of nine years.
- 8.2 A person elected as the Lead Governor shall cease to be eligible to continue serving as the Lead Governor if they cease to be a Governor or Member and the Lead Governor's term of office may be terminated by a majority of not less than 75% of the Governors present and voting at a meeting of the Council of Governors.

9. Council of Governors: Appointment of Senior Independent Director

- 9.1 A majority of the Governors shall at a general meeting of the Council of Governors agree the appointment of one of the Non-Executive Directors as recommended by the Board of Directors to be the Senior Independent Director for a term of three years. The Senior Independent Director shall be eligible for re-appointment at the end of that term but may not serve as Senior Independent Director for more than a total of six years.
- 9.2 The Senior Independent Director shall be available to Members and Governors if they have concerns which contact through the normal channels of the Chair or Chief Executive or Chief Finance Officer has failed to resolve or for which such contact is inappropriate.
- 9.3 A person appointed as the Senior Independent Director shall cease to be eligible to continue serving as the Senior Independent Director if they cease to be a Non-Executive Director and the Senior Independent Director's term of office may be

terminated by a majority of not less than 75% of the Governors present and voting at a meeting of the Council of Governors on the recommendation of the Chair.

ANNEX 6 – FURTHER PROVISIONS

1. Eligibility for Membership

It is the responsibility of Members to ensure their eligibility and not the Trust, but if the Trust is on notice that a Member may be disqualified from Membership, the Trust shall carry out all reasonable enquiries to establish if this is the case.

2. Public Constituency

2.1 For the purposes of determining whether an individual lives in an area specified as an area for Public Constituency, an individual shall be deemed to do so if:

2.1.1 their name appears on the electoral roll at an address within the said area and the Trust has no reasonable cause to conclude that the individual is not living at that address; or

2.1.2 the Trust is otherwise satisfied that the individual lives in the said area.

2.2 An individual who is a Member of the Public Constituency shall cease to be eligible to continue as a Member if they cease to live in the area of the Public Constituency of which they are a Member save as may otherwise be provided in this paragraph 2.

2.3 Where a Member of a Public Constituency ceases to live permanently in the area of the Public Constituency of which they are a Member they shall forthwith advise the Trust that they are no longer eligible to continue as a Member and the Trust shall forthwith remove their name from the Register of Members unless the Trust is satisfied that the individual concerned lives in some other area of a Public Constituency of the Trust. Where the Trust is satisfied that such an individual continues to live in the area of a Public Constituency of the Trust it shall, if the individual so requests, thereafter, treat that individual as a Member of that other Public Constituency and amend the Register of Members accordingly provided the Trust has given that individual not less than 14 days' notice of its intention to do so.

2.4 Where a Member ceases to live temporarily in the area of the Public Constituency of which they are a Member, the Trust may permit that individual nonetheless to remain on the Register of Members for that Public Constituency if it is for good cause satisfied that the absence is of a temporary duration only and that the Member will either return to live in the area of that Public Constituency of which they are a Member or will live in some other part of the area of the Trust in which case the provisions of paragraph 2.1 shall apply as appropriate.

3. Staff Constituency

3.1 A Member of a Staff Class will cease to be eligible to be a Member of that Staff Class if they no longer meet the eligibility requirements of paragraph 8 of the Constitution and of Annex 2.

3.2 Where an individual is a Member by virtue of their eligibility to be a Member of a Staff Class and they cease to be eligible for Membership of that Staff Class but are eligible for Membership of some other Staff Class then the Trust may give notice to

that Member of its intention to transfer him/her to that other Staff Class on the expiration of a period of time or upon a date specified in the said notice and shall after the expiration of that notice or date amend the Register of Members accordingly.

4. Membership Termination of Tenure

- 4.1 A Member may be expelled from membership of the Trust by a resolution approved by the majority of Governors voting at a meeting of the Council of Governors. The following procedure is to be adopted:
 - 4.1.1 any Member may complain to the Secretary that another Member has acted in a way detrimental to or contrary to the interests of the Trust, or is otherwise disqualified as set out section 12 above; and
 - 4.1.2 subject to paragraphs 12.2 to 12.6 below, if a complaint is made, the Council of Governors will consider the complaint, having taken such steps as it considers appropriate, to ensure that each Member's point of view is heard and may either:
 - (a) dismiss the complaint and take no further action;
 - (b) arrange for a resolution to expel the Member complained of to be considered at the next meeting of the Council of Governors; or
 - (c) determine that the complaint should be investigated by an agreed investigating body. For the avoidance of doubt, not every complaint received should result in investigation
 - 4.1.3 If a resolution to expel a Member is to be considered at a meeting of the Council of Governors, details of the complaint must be sent to the Member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the meeting.
 - 4.1.4 At the meeting, the Council of Governors will consider evidence in support of the complaint and such evidence as the Member complained of may wish to place before them.
 - 4.1.5 If the Member complained of fails to attend the meeting without due cause the meeting may proceed in their absence. The decision to proceed in these circumstances will be at the sole discretion of the person chairing the meeting in question.
 - 4.1.6 A person expelled from membership will cease to be a Member upon the declaration by the person chairing the meeting in question that the resolution to expel them is carried.
 - 4.1.7 No person who has been expelled from membership pursuant to the provisions of paragraph 4.1 above is to be re-admitted as a Member except by a resolution of the Council of Governors carried by the majority of Governor votes present and voting at a meeting of the Council of Governors.
- 4.2 A Member shall cease to be a Member if:-

- 4.2.1 they cease to be entitled under this Constitution to be a Member of any of the Public Constituencies or one of the classes of the Staff Constituency;
 - 4.2.2 they resign by notice in writing to the Secretary;
 - 4.2.3 they die;
 - 4.2.4 they are expelled under this Constitution;
 - 4.2.5 if it appears to the Company Secretary that they no longer wish to be involved in the affairs of the Trust as a Member, and after enquiries made in accordance with a process approved by the Council of Governors they fail to establish that they have a continuing wish to be involved in the affairs of the Trust as a Member.
- 4.3 All members of the Trust shall be under a duty to notify the Company Secretary of any change in their particulars which may affect their entitlement as a member.

5. Board of Directors: Disqualification

- 5.1 In addition to the grounds of disqualification set out in Sections 28 -31 of the Constitution, a person may also not be or continue as a Director of the Trust if:
- 5.1.1 in the case of a Non-Executive Director, s/he no longer satisfies the relevant requirements for appointment;
 - 5.1.2 s/he is a person whose tenure of office as a chair or as a director of a Health Service Body has been terminated on the grounds that his/her appointment is not in the interests of public service, or for non-disclosure of a pecuniary interest;
 - 5.1.3 s/he has within the preceding two years been dismissed, otherwise than by reason of redundancy, by the coming to an end of fixed term contract or through ill health, from any paid employment with a Health Service Body;
 - 5.1.4 information revealed by a DBS check is such that it would be inappropriate for him/her to become or continue as a Director on the grounds that this would adversely affect public confidence in the Trust or otherwise bring the Trust into disrepute;
 - 5.1.5 in the case of an Executive Director, s/he is no longer employed by the Trust;
 - 5.1.6 s/he is a person who has had their name removed by a Direction under Section 154 of the 2006 Act from any list prepared under Part 4 of that Act, and have not subsequently had their name included on such a list;
 - 5.1.7 s/he is the subject of a disqualification order made under the Company Directors' Disqualifications Act 1986;
 - 5.1.8 s/he has failed to sign and deliver to the Secretary in the form required by the Board of Directors confirmation that s/he accepts the Trust's Standards of Business Conduct Policy;
 - 5.1.9 s/he has failed or refused to undertake any training which the Board of Directors requires all Directors to undertake.

5.1.10 s/he is a partner or spouse of an existing Director.

6. Governors and Directors: Communication and Conflict

6.1 Summary

This paragraph describes the processes intended to ensure a successful and constructive relationship between the Council of Governors and the Board of Directors. It emphasises the importance of informal and formal communication and confirms the formal arrangements for communication within the Trust. It suggests an approach to informal communications and sets out the formal arrangements for resolving conflicts between the Council of Governors and the Board of Directors.

6.2 Informal Communications

- 6.2.1 Informal and frequent communication between the Lead Governor, Governors and the Directors is an essential feature of a positive and constructive relationship designed to benefit the Trust and the services it provides.
- 6.2.2 The Chair shall use their reasonable endeavours to encourage effective informal methods of communication including:
- (a) participation of the Board of Directors in the induction, orientation and training of Governors;
 - (b) development of special interest relationships between Non-Executive Directors and Governors;
 - (c) discussions between Governors and the Chair and/or the Chief Executive and/or Directors through the office of the Chief Executive or their nominated officer; and
 - (d) involvement in Membership recruitment and briefing at public events organised by the Trust.

6.3 Formal Communication

- 6.3.1 Some aspects of formal communication are defined by the constitutional roles and responsibilities of the Council of Governors and the Board of Directors respectively.
- 6.3.2 Formal communications initiated by the Council of Governors and intended for the Board of Directors will be conducted as follows:
- (a) specific requests by the Council of Governors will be made through the Company Secretary to the Chair to the Board of Directors;
 - (b) any Governor has the right to raise specific issues to be put to the Board of Directors at a duly constituted meeting of the Council of Governors through the Chair. Such issues should be raised with the Chair (or, if it involves the Chair then the Deputy Chair) no less than 10 working days before the meeting in order to be included in the agenda. In the event of disagreement, two thirds of the Governors present must approve the request. The Chair will raise the matter

with the Board of Directors and provide the response to the Council of Governors;

- (c) joint meetings will take place as and when, as, appropriate between the Council of Governors and the Board of Directors.

6.3.3 The Board of Directors may request the Chair to seek the views of the Council of Governors on such matters as the Board of Directors may from time to time determine.

6.3.4 Communications initiated by the Board of Directors and intended for the Council of Governors will be conducted as follows:

- (a) the Board of Directors' proposals for the strategic direction and the Annual Report and Forward Plan;
- (b) the Board of Directors' proposals for developments;
- (c) Trust Performance;
- (d) involvement in service reviews and evaluation relating to the Trusts services ; and proposed changes, plans and developments for the Trust other than those covered above.

6.3.5 The Board of Directors shall also present to the Council of Governors the Annual Accounts, Annual Report and any report of the Auditors in accordance with the terms of this constitution and of the 2006 Act and any subsequent legislation or regulation.

6.3.6 The following formal methods of communication may also be used as appropriate with the consent of both the Council of Governors and the Board of Directors:

- (a) attendance by the Board of Directors at a meeting of the Council of Governors; or
- (b) provision of formal reports or presentations by executive and/or non-executive Directors to a meeting of the Council of Governors;
- (c) inclusion of appropriate minutes for information on the agenda of a meeting of the Council of Governors;
- (d) reporting the views of the Council of Governors to the Board of Directors through the Chair, the Deputy Chair or the Senior Independent Director;

6.4 Resolving Conflict between the Council of Governor and the Board of Directors

6.4.1 The Council of Governors and the Board of Directors must be committed to developing and maintaining a constructive and positive relationship. The aim at all times is to resolve any potential or actual differences of view quickly, through discussion and negotiation.

6.4.2 If the Chair cannot achieve resolution of a disagreement or dispute between the Council of Governors and the Board of Directors through informal efforts the Chair will follow the dispute resolution process described below. The aim

is to resolve the matter at the first available opportunity, and only to escalate to the next step if the step taken fails to achieve resolution.

- (a) the Chair will call a joint meeting (Resolution Meeting) of equal numbers of Governors and Board of Directors, to take place as soon as possible, but no later than twenty working days following the date of the request. The resolution meeting will be held in private. The aim of the meeting will be to achieve resolution of the conflict. The Chair will have the right to appoint an independent facilitator to assist the process. Every effort must be made to reach agreement;
- (b) if the Resolution Meeting fails to resolve the conflict, the dispute will be deferred back to the Board of Directors who shall make the final decision;
- (c)

7. Resolving Disputes about the Entitlement to Membership of the Trust and Eligibility for Membership of the Council of Governors

- 7.1 Where an individual is held by the Trust to be ineligible and/or disqualified from membership of the Trust and disputes the Trust's decision in this respect, the matter shall be referred to the Chief Executive (or such other Director of the Trust as the Chief Executive may, in their absolute discretion, nominate) as soon as reasonably practicable thereafter, and in any case, within 14 days of the Trust's decision.
- 7.2 The Chief Executive (or their nominated representative) shall:
 - 7.2.1 view the original decision having regard to any representations made by the individual concerned and such other material, if any, as the Chief Executive considers appropriate;
 - 7.2.2 then either confirm the original decision or make some other decision as appropriate based on the evidence which they have considered; and
 - 7.2.3 communicate their decision and the reasons for it in writing to the individual concerned as soon as reasonably practicable.
 - 7.2.4 Where a Governor is declared ineligible or disqualified from office or their term of office as a Governor has been terminated (for any reason other than expiry of their term of officer or as a consequence of their own resignation) and that person disputes the decision, they shall as soon as reasonably practicable be entitled to attend a meeting with the Chair and Chief Executive, who shall use their reasonable endeavours to facilitate such a meeting, to discuss the decision with a view to resolving any dispute which may have arisen but the Chair and Chief Executive shall not be entitled to rescind or vary the decision which has already been taken.

8. Indemnity

- 8.1 Members of the Council of Governors and Board of Directors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their Board functions, save where they have acted recklessly. Any reasonable costs arising in this way will be met by the Trust.

- 8.2 The Trust may purchase and maintain insurance against the liability for its own benefit of members of the Council of Governors, the Board of Directors and the Company Secretary.
- 8.3 The Trust may take out insurance or make appropriate arrangements with the National Health Service Litigation Special Health Authority (NHS Resolution) or successor body, in respect of directors and officers liability, including liability arising by reason of the Trust acting as corporate trustee of an NHS Charity or Director of a wholly owned subsidiary.

9. Validity of Actions

No defect or deficiency in the appointment or composition of the Council of Governors or the Board of Directors shall affect the validity of any action taken by them.

10. Registers

- 10.1 The Company Secretary shall be responsible for compiling and maintaining the Registers. Removal from any Register shall be in accordance with the provisions of this Constitution. The Secretary shall update the registers with new or amended information as soon as is practical and in any event within 14 days.
- 10.2 Register of Members
 - 10.2.1 Members must complete and sign an application in the form prescribed by the Company Secretary; and
 - 10.2.2 the Company Secretary shall maintain the Register of members will be in two parts. Part 1 shall include the name of each Member Registers (see section 32 and 33) and the Constituency or class to which they belong and shall be open to inspection by the public in accordance with paragraph 33 of this Constitution. Part 2 shall contain all the information from the individual's application form and shall not be open to inspection by the public nor may copies or extracts from it be made available to any third party. Notwithstanding this provision, the Trust shall extract such information as it needs in aggregate to satisfy itself that the actual Membership of the Trust is representative of those eligible for Membership.
- 10.3 Register of Members of the Council of Governors

The Register shall list the names of members of the Council of Governors, their category of Membership of the Board (public, staff or organisation represented) and an address through which they may be contacted which may be the Secretary.
- 10.4 Register of Interests of the Members of the Council of Governors

Each member of the Council of Governors shall complete and sign a form as prescribed by the Secretary setting out interests to be declared in accordance with the Standing Orders and the register shall contain the names of all members of the Council of Governors and any interests declared including no interests.
- 10.5 Register of Interests of Directors

The Register shall list the names of Members of the Board of Directors, their capacity on the Board and an address through which they may be contacted which may be the Secretary.

Each Member of the Board of Directors shall complete and sign a form as prescribed by the Company Secretary setting out any interests to be declared in accordance with the Standing Orders for the Board of Directors and the Register shall contain the names of all members of the Board of Directors and any interests declared including no interests.

11. Auditor

11.1 A person may only be appointed auditor if they (or in the case of a firm each of its members) is a member of one or more of the following bodies:

11.1.1 the bodies mentioned in section 3(7)(a) to (e) of the Audit Commission Act 1998; or

11.1.2 any other body of accountants established in the United Kingdom and approved by The Regulator.

12. Accounts

12.1 The following documents will be made available to the Comptroller and Auditor General for examination at their request:

12.1.1 the accounts;

12.1.2 any records relating to them; and

12.1.3 any report of the auditor on them.

12.2 In preparing its annual accounts, the Trust is to comply with any directions given by the Regulator with the approval of the Treasury as to:

12.2.1 the methods and principles according to which the accounts are to be prepared; and

12.2.2 the information to be given in the accounts.

12.3 The Trust must:

12.3.1 lay a copy of the annual accounts, and any report of the auditor on them, before Parliament; and

12.3.2 once it has done so, send copies of those documents to the Regulator

12.4 Annual reports and forward plans

12.4.1 The annual report submitted by the Trust to NHS Improvement/England in accordance with paragraph 39.1 is to give:

(a) information on any steps taken by the Trust to secure that (taken as a whole) the actual Membership of its public constituencies is representative of those eligible for such Membership; and

(b) any other information NHS Improvement/England requires.

12.4.2 The Trust is to comply with any decision NHS Improvement/England makes as to:

12.4.3 the form of the reports;

12.4.4 when the reports are to be sent to it; and

12.4.5 the periods to which the reports are to relate.

ANNEX 7 – STANDING ORDERS FOR THE PRACTICE AND THE PROCEDURE OF THE COUNCIL OF GOVERNORS

1. INTRODUCTION
2. DEFINITIONS
3. MEETINGS OF THE COUNCIL OF GOVERNORS
 - 3.1 Admission of the Public
 - 3.2 Calling Meetings
 - 3.3 Notice of Meetings
 - 3.4 Annual Meeting
 - 3.5 Setting the Agenda
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1. Introduction

- 1.1 Doncaster and Bassetlaw Teaching Hospital NHS Foundation Trust became a Public Benefit Corporation on 1 April 2004 following authorisation by Monitor, pursuant to Section 6 of the Health and Social Care (Community Health and Standards) Act 2003.
- 1.2 The principal place of business of the Trust is: Doncaster Royal Infirmary, Armthorpe Road, Doncaster, South Yorkshire, DN2 5LT.
- 1.3 The Trust is governed by the Regulatory Framework. The functions of the Trust are conferred by the Regulatory Framework. The Regulatory Framework requires the Council of Governors of the Trust to adopt Standing Orders for the regulation of its proceedings and business and to adhere at all times to the Code of Conduct for Governors.
- 1.4 As a Public Benefit Corporation, the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable.

2. Definitions

In these Standing orders the definitions outlined in the constitution paragraph 1.

3. Meetings of the Council of Governors

3.1 Admission of the Public

3.1.1 The public and representatives of the press shall be afforded facilities to attend all formal meetings of the Council of Governors except where it resolves by special resolution that members of the public and representatives of the press be excluded from a meeting on the grounds that:

- a) any publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or
- b) for other reasons stated in the resolution and arising from the nature of the business or the proceedings, that the Council of Governors believe are special reasons for excluding the public from the meeting in accordance with the Constitution.
- c) Nothing in these SOs shall require the Council of Governors to allow members of the public and representatives of the press to record proceedings in any manner whatsoever, other than writing, or to make any oral report of proceedings as they take place, without the prior agreement of the Council of Governors.

3.2 Calling Meetings

3.2.1 Meetings of the Council of Governors shall be held at such times and places as the Council of Governors may determine and there shall be at least 3 meetings in any year including:

- a) an annual meeting no later than the 30 September in each year apart from the first year, when the Council of Governors are to receive and consider the Annual Accounts, any report by the Auditor and the Annual Report; and
- b) any other meetings required of the Governors in order to fulfil their functions in accordance with the Constitution.

3.2.2 The Secretary may call a meeting of the Council of Governors at any time. If the Secretary refuses to call a meeting after a requisition for that purpose, signed by at least three quarters of the members of the Council of Governors and specifying the business to be transacted at the meeting, has been presented to the Secretary, or if, without so refusing, the Secretary does not call a meeting within 5 Clear Days after such requisition has been presented to the Secretary at the Trust's Headquarters, such three-quarters or more of the Governors may forthwith call a meeting for the purpose of conducting that business.

3.2.3 The Council of Governors may invite the Chief Executive, member of the Board of Directors or a representative of the financial auditor or other advisors to attend a meeting of the Council of Governors.

- 3.2.4 The Council of Governors may agree that its Governors can participate in its meetings by telephone or video link. Participation in a meeting in this manner shall be deemed to be exceptional but shall constitute presence in person at the meeting for the purposes of SO 2.17 (Quorum).

3.3 Notice of Meetings

- 3.3.1 Before each meeting of the Council of Governors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chair or by an officer authorised by the Chair to sign on their behalf, shall be delivered to, or sent by post to the usual place of residence of every Governor, so as to be available to them at least 7 days before the meeting, save in the case of emergencies.
- 3.3.2 Before each meeting of the Council of Governors, a public notice of the time and place of the meeting, and if possible, the public part of the agenda, shall be advertised on the Trust's website at least 7 days before the meeting, save in the case of emergencies.
- 3.3.3 Want of service of the notice on any one Governor shall not affect the validity of a meeting but failure to serve such a notice on more than three Governors will invalidate the meeting. A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of emailing.
- 3.3.4 In the case of a meeting called by Governors in default of the Chair, the notice shall be signed by those Governors and no business shall be transacted at the meeting other than that specified in the requisition.
- 3.3.5 Agendas will be sent to Governors before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than 5 Clear Days before the meeting, save in the case of emergencies. It is the responsibility of the Chair to ensure that sufficient information is provided to Governors to ensure that rational discussion can take place.
- 3.3.6 In the event of an emergency giving rise to the need for an immediate meeting failure to comply with the notice periods referred to in SO 3.3 shall not prevent the calling of or invalidate such meeting provided that every effort is made to contact members of the Council of Governors who are not absent from the United Kingdom and the agenda for the meeting is restricted to matters arising in that emergency.

3.4 Annual Meeting of the Council of Governors

- 3.4.1 The Council of Governors shall hold an annual meeting of the Council of Governors in every calendar year so that there is no more than fifteen calendar months between one meeting and the next and no more than 6 months from the end of the previous financial year (30 September) and shall present to that meeting:
- a) A report on the proceedings of its meetings held since the last annual meeting;
 - b) A report on the progress since the last annual meeting in developing the membership strategy including the steps taken to ensure that the actual membership of its Public

Constituency and Service Users' and Carers' Constituency is fully representative of the persons who are eligible to be members under the Constitution;

- c) A report on any change to the Governors which has taken place since the last annual meeting; and
- d) A report containing such comments as it wishes to make regarding the performance of the Trust and the accounts of the Trust for the preceding Financial Year and the future service development plans of the Trust.

3.5 Setting the Agenda

- 3.5.1 The Council of Governors may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted.
- 3.5.2 A member of the Council of Governors desiring a matter to be included on an agenda, including a formal proposition for discussion and voting on at a meeting, shall make his request in writing to the Chair or the Secretary at least 21 Clear Days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 21 Clear Days before a meeting may be included on the agenda at the discretion of the Chair.

3.6 Petitions

- 3.6.1 Where a petition has been received by the Trust, the Chair shall include the petition as an item for the agenda of the next meeting of the Council of Governors.

3.7 Chair of Meeting

- 3.7.1 At any Council of Governors meeting, the Chair, if present, shall preside. If the Chair is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest, the Deputy Chair shall preside.
- 3.7.2 If the Deputy Chair is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest, another Non-Executive Director or the Lead Governor as shall be appointed by the Council of Governors shall preside.

3.8 Agenda

- 3.8.1 Where a Governor has requested inclusion of a matter on the agenda in accordance with SO 3.5.2 above as a matter to be formally proposed for discussion and voting on at the meeting, the provisions of this SO 3.8 shall apply in respect of the proposition:
- 3.8.2 The mover of the proposition shall have a right of reply at the close of any discussion on the proposition or any amendment thereto.
- 3.8.3 When a proposition is under discussion or immediately prior to discussion it shall be open to a Governor to move: an amendment to the proposition;

- a) the adjournment of the discussion or the meeting;
- b) that the meeting proceeds to the next business;
- c) the appointment of an ad hoc committee to deal with a specific item of business;
- d) that the motion be now put;
- e) that the public be excluded from the meeting in relation to the discussion concerning the proposition under SO 3.1.

3.8.4 In the case of sub-paragraphs SO 3.8.3.c and SO 2.8.3.e above, to ensure objectivity these matters may only be put by a Governor who has not previously taken part in the debate and who is eligible to vote.

3.8.5 No amendment to the proposition shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the proposition.

3.8.6 The mover of a proposition shall have a maximum of five minutes to move and five minutes to reply. Once a proposition has been moved, no Governor shall speak more than once or for more than five minutes.

3.9 Report from the Board of Directors

3.9.1 Unless otherwise agreed in writing, at each meeting of the Council of Governors, the Chief executive or nominated representative shall present a report on the Trusts progress and forward planning.

3.10 Chair's Ruling

3.10.1 Statements of Governors made at meetings of the Council of Governors shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be final.

3.11 Voting

The Council of Governors will endeavour to ensure that decisions taken are by consensus and without recourse to voting, except where a vote is formally required under the Constitution. Where however consensus is not achieved, the following process of voting will be applied.

3.11.1 A Governor may not vote at a meeting of the Council of Governors unless, within 7 Clear Days prior to the commencement of the meeting they have made a declaration in the form specified within Schedule A of these Standing Orders, that they are a member of the constituency which elected them and are not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 7 to the 2006 Act or under the Constitution.

3.11.2 Subject to SO 3.11.4 below, matters requiring the conduct of a vote shall be determined by a majority of the votes of the Governors present and voting on the question.

- 3.11.3 Whoever is Chair of the meeting of the Council of Governors shall in the case of an equality of votes on any question or proposal, have a casting vote.
- 3.11.4 A resolution for the removal of the Chair or a Non-Executive Director shall be passed only in accordance with the provisions of 28.2 to 28.5 of the Constitution.
- 3.11.5 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Governors present so request.
- 3.11.6 If at least one-third of the Governors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Governor present voted or abstained.
- 3.11.7 If a Governor so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.11.8 A Governor may only vote if present at the time of the vote on which the question is to be decided; no Governor may vote by proxy, but a Governor is considered to have been present at the meeting if they took part by telephone or video link and so is therefore entitled to vote.
- 3.12 Special Provisions relating to Termination of Governor's Tenure:
 - 3.12.1 Where a person has been elected or appointed to be a Governor and they become disqualified from office under paragraph 16 or paragraph 17 of the Constitution, they shall notify the Secretary in writing of such disqualification as soon as practicable and in any event within 14 days of the first becoming aware of those matters which render them disqualified. The Secretary shall forthwith remove them from the Register of the Governors.
 - 3.12.2 If it comes to the notice of the Secretary that the Governor is disqualified pursuant to SO 2.12.1, whether at the time of the Governor's appointment or later, the Secretary shall immediately declare that the individual in question is disqualified and give them notice in writing to that effect as soon as practicable and in any event within 14 days of the date of the said declaration. In the event that the governor disputes that they are disqualified, the governor may refer the matter to the dispute resolution procedure set out in paragraph 7 of Annex 6 within 28 days of the date upon which the notice was given to the Governor.
- 3.13 Minutes
 - 3.13.1 The Minutes of the proceedings of a meeting shall be drawn up by the Secretary and submitted for agreement at the next ensuing meeting where they will be signed by the Chair presiding at it.
 - 3.13.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

3.13.2 Minutes of meetings will be taken and circulated in accordance with Governors' wishes.

3.14 Suspension of Standing Orders

3.14.1 Except where this would contravene any statutory provision or any direction made by the Regulator, any one or more of the SOs may be suspended at any meeting, provided that at least two-thirds of the Governors are present, and that a majority of those present vote in favour of suspension.

3.14.2 A decision to suspend the SOs shall be recorded in the minutes of the meeting.

3.14.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and Governors.

3.14.4 No formal business may be transacted while Standing Orders are suspended.

3.14.5 Record of Attendance, the names of the Chair and Governors present at the meeting shall be recorded in the minutes.

3.15 Variation and Amendment of Standing Orders

3.15.1 Subject always to paragraph 3.14 of Annex 7 of the Constitution, these Standing Orders shall be amended only if:

- a) a notice of proposal under Standing Order 3.5 has been given; and
- b) at least two thirds of the total number of Governors is present; and
- c) the majority of Governors present vote in favour of amendment; and
- d) the variation proposed has been approved by the Council of Governors and does not contravene a statutory provision, guidance issued by the Regulator or the Constitution.

3.16 Record of Attendance

3.16.1 The names of the Chair and Governors present at the meeting shall be recorded in the minutes.

3.17 Quorum

3.17.1 No business shall be transacted at a meeting unless at least one third of the total number of Governors are present with the majority of those present being Public Governors.

3.17.2 If at any meeting there is no quorum present within 15 minutes of the time scheduled for its commencement, the meeting shall stand automatically adjourned for a period of seven days and the Chair shall give or procure the giving of notice to all Governors of the date, time and place of that adjourned meeting. Upon reconvening, those present shall constitute a quorum.

- 3.17.3 If a Governor has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest as provided in SO 6, they shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

3.18 Urgent Decisions

- 3.18.1 Where such a decision is required to be taken by the Council of Governors and which cannot await the next scheduled formal meeting of the Council of Governors, a section of the next Council of Governors development session be formally designated a formal general meeting for this specific purpose.

- 3.18.2 For decisions required to be taken in situations where the approach above does not result in a quorate meeting it is proposed that:

- a) A decision to be taken, where justified, by the Lead Governor and Chair following consultation with the Deputy Lead Governor.
- b) Where the decision to be taken is one which would ordinarily be required under the Constitution to be subject to a vote by the Council of Governors, that such a vote be conducted electronically outside of the meeting and overseen by the Secretary (for those Governors who do not have access to or preference would be not to utilise IT, a paper vote would be enabled).

- 3.18.3 Any decision taken under such an approach would be reported to the next meeting of the Council of Governors.

- 3.18.4 The use of the above approach will only be utilised in exceptional circumstances, with the expectation that all business will be conducted at the formal Council of Governor meetings

4 Lead Governor and Deputy Lead Governor

- 4.1 In accordance with the code of governance for NHS provider trusts the Council of Governors shall elect a Lead Governor and if required a Deputy Lead Governor who must be a Governor. The Lead Governor (or in their absence a Deputy Lead Governor) has a role in facilitating direct communication between NHS England (or its successor) and the Council of Governors. This will be in a limited number of circumstances and, in particular, where it may not be appropriate to communicate through the normal channels, which in most cases will be via the Chair or the Company Secretary.

- 4.2 Without prejudice to the rights of any Governor to communicate directly with the Chair, the Lead Governor shall be responsible for receiving from Governors and communicating to the Chair any comments, observations and concerns expressed to the Chair by Governors other than at meetings of the Council of Governors regarding the performance of the Trust or any other serious or material matter relating to the Trust or its business.

- 4.3 The Deputy Lead Governor shall be responsible for supporting the Lead Governor in their role and for performing the responsibilities of the Lead Governor whenever they are known to be unavailable.
- 4.4 Each Governor shall communicate any comment, observation or concern which they may have to the Lead Governor in the first instance and only to the Deputy Lead Governor if the Lead Governor is known to be unavailable.
- 4.5 These appointments shall be made from those Governors who have been elected as Governors from the Public Constituency or appointed by a Partner Organisation
- 4.6 The Lead Governor and the Deputy Lead Governor so elected shall hold office for a period of three years provided that they continue to hold the governor seat to which they were duly elected or appointed. They may subsequently seek re-election for one more three-year period of office, provided that they continue to hold the governor seat to which they were duly elected or appointed.
- 4.7 Nominations for appointment as Lead Governor and Deputy Lead Governor shall be sent out with the papers for the first meeting or annual meeting of the Council of Governors as the case may be. Each nomination shall be made in writing by the Governor seeking appointment and must be returned to the principal place of business of the Trust addressed to the Company Secretary to arrive by a stipulated date.
- 4.8 There shall be separate forms of nomination for appointment to the position of Lead Governor and the position of Deputy Lead Governor and eligible Governors may be nominated for both positions. In the event of there being two or more nominations for either appointment a secret postal ballot shall be held of all the Governors with each Governor having one vote for each contested appointment. The Governor whose nomination receives the largest number of votes for each position shall be appointed.
- 4.9 In the event of the number of votes in any election being equal, a draw will take place overseen by the Company Secretary. The nomination whose name is drawn will be elected to the role.
- 4.10 The result of the ballot shall be announced at the meeting.

5 Committees

- 5.1 Subject to such guidance as may be issued by the Regulator, the Council of Governors may appoint committees of the Council of Governors to assist it in the proper performance of its functions under the Constitution and the Regulatory Framework, consisting wholly or partly of the Chair and Governors.
- 5.2 All decisions taken in good faith at the meeting of the Council of Governors or at any meeting of a committee shall be valid even if it is subsequently discovered that there was a defect in the calling of the meeting or the appointment of the Governors attending the meeting.
- 5.3 A committee appointed under SO 5.1 may, subject to such directions as may be given by the Council of Governors, appoint sub-committees consisting wholly or partly of members of the committee.

- 5.4 These SOs, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Council of Governors with the terms “Chair” to be read as a reference to the Chair of the committee, and the term “Governor” to be read as a reference to a member of the committee as the context permits.
- 5.5 Each such committee shall have such terms of reference and powers and be subject to such conditions as the Council of Governors shall decide and shall be in accordance with the Regulatory Framework and any guidance issued by the Regulator, but the Council of Governors shall not delegate to any committee any of the powers or responsibilities which are to be exercised by the Council of Governors at a formal meeting. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 5.6 Where committees are authorised to establish sub-committees, they may not delegate their powers to the sub-committee unless expressly authorised by the Council of Governors.
- 5.7 Any committee or sub-committee established under this SO 5 may call upon outside advisers to assist them with their tasks, provided that the financial and other implications of seeking outside advisers have been discussed and agreed by the advance agreement of the Board of Directors. Any conflict arising between the Council of Governors and the Board of Directors under this paragraph shall be determined in accordance with the Dispute Resolution Procedure as set out at paragraph 6.4 of Annex 6.
- 5.8 The Council of Governors shall approve the appointments to each of the committees which it has formally constituted.
- 5.9 Where the Council of Governors is required to appoint persons to a committee to undertake statutory functions, and where such appointments are to operate in accordance with applicable statute and regulations and with guidance issued by the Regulator.
- 5.10 Where the Council of Governors determines that persons who are neither Governors, nor Directors or Officers of the Trust, shall be appointed to a committee, the terms of such appointment shall be determined by the Council of Governors subject to the payment of travelling expenses and other allowances being in accordance with such sum as may be determined by the Board of Directors.

6 Declarations of Interests and Register of Interests

6.1 Declaration of Interests

6.1.1 The Regulatory Framework and the Constitution require each Governor to declare to the Secretary:

- a) any actual or potential interest, direct or indirect, which is relevant and material to the business of the Trust, as described in SO 6.2.1; and
- b) any actual or potential pecuniary interest, direct or indirect, in any contract, proposed contract or other matter concerning the Trust which is under consideration or is to be considered by the Council of Governors, as described in SOs 6.2.2 and 6.2.3; and

- c) any actual or potential family interest, direct or indirect, of which the Governor is aware, as described in SO 6.2.5.
- 6.1.2 Such a declaration shall be made either at the time of the Governor's election or appointment or within 28 days thereof, or otherwise as soon as they becomes aware of the existence of that interest, and in a form prescribed by the Secretary from time to time.
- 6.1.3 In addition, if a Governor is present at a meeting of the Council of Governors and has an interest of any sort in any matter which is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not vote on any question with respect to the matter.
- 6.1.4 Subject to SO 6.2, if a Governor has declared a pecuniary interest (as described in SOs 6.2.2 to 6.2.5) they shall not take part in the consideration or discussion of the matter. At the time the interests are declared, they should be recorded in the Governor's meeting minutes. Any changes in interests should be officially declared at the next relevant meeting following the change occurring.
- 6.1.5 This SO 6 applies to any committee, sub-committee or joint committee of the Council of Governors and applies to any member of any such committee, sub-committee, or joint committee (whether or not they are also a Governor).
- 6.1.6 The interests of Governors in companies likely or possibly seeking to do business with the NHS should be published in the Trust's Annual Report. The information should be kept up to date for inclusion in succeeding Annual Reports.

6.2 Nature of Interests

- 6.2.1 Interests which should be regarded as "relevant and material" are as follows and are to be interpreted in accordance with guidance issued by the Regulator:
 - a) directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies); or
 - b) ownership, part-ownership or directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS; or
 - c) majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS; or
 - d) a position of authority in a charity or voluntary organisation in the field of health and social care; or
 - e) any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services; or
 - f) any connection with an organisation, entity or company considering entering into or having entered into a financial agreement with the Trust, including but not limited to, lenders or banks; or

- g) research/funding grants that may be received by an individual or their department; or
- h) interests in pooled funds that are under separate management.

6.2.2 A Governor shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

- a) they, or a nominee of theirs, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration; or
- b) they are a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

6.2.3 A Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

- a) of their membership of a company or other body, if they have no beneficial interest in any securities of that company or other body; or
- b) of an interest in any company, body or person with which they are connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Governor in the consideration or discussion of or in voting on, any question with respect to that contract or matter; or
- c) of any travelling or other expenses or allowances payable to a Governor in accordance with the Constitution.

6.2.4 Where a Governor:

- a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
- b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
- c) if the share capital is of more than one class, the total nominal value of shares of any one class in which they have a beneficial interest does not exceed one-hundredth of the total issued share capital of that class;
- d) the Governor shall not be prohibited from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however it is their duty to disclose the interest.

6.2.5 A family interest is an interest of the spouse or partner or any parent, child, brother or sister of a Governor which if it were the interest of that Governor would be a personal interest or a pecuniary interest of theirs.

6.2.6 If Governors have any doubt about the relevance or materiality of an interest, this should be discussed with the Chair. Influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including General Practitioners should also be considered.

7 Standards of Business Conduct

7.1 Members of the Council of Governors shall comply with the Trust's Code of Conduct for Governors and any guidance or best practice advice issued by the Regulator.

8 Appointments and Recommendations

8.1 A Governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment, but this paragraph of this Standing Order shall not preclude a Governor from giving written testimonial of a candidate's appointment.

8.2 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

8.3 Candidates for any staff appointment under the Trust shall, when making such an application, disclose in writing to the Trust whether they are related to any Governor or the holder of any office within the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render them liable to instant dismissal.

8.4 The Chair and every Governor shall disclose to the Trust Secretary any relationship between themselves and a candidate of whose candidature that Governor or Officer is aware. It shall be the duty of the Company Secretary to report to the Council of Governors any such disclosure made.

8.5 On appointment, members of the Council of Governors should disclose to the Council of Governors whether they are related to any other member of the Council of Governors or holder of any office in the Trust.

8.6 Where the relationship to a member of the Council of Governors of the Trust is disclosed, SO 6 shall apply.

9 Remuneration and Expenses

9.1 Governors are not to receive remuneration.

9.2 The Trust will pay travelling expenses to Governors in accordance with the relevant Trust policies for attendance at General Meetings of the Governors, or any other business authorised by the Secretary as being under the auspices of the Council of Governors.

9.3 Expenses will be authorised and reimbursed through the Secretary's office on receipt of a completed and signed expenses form provided by the Secretary.

9.4 A summary of expenses paid to Governors will be published in the Annual Report.

10 Miscellaneous

- 10.1 The Company Secretary shall provide a copy of these Standing Orders to each Governor and endeavor to ensure that each Governor understands their responsibilities within these Standing Orders.
- 10.2 These Standing Orders including all documents having effect as if incorporated in them shall be reviewed regularly by the Board of Directors and the Council of Governors.
- 10.3 Any written notice required by these SOs shall be deemed to have been given on the day the notice was sent to the recipient.
- 10.4 If for any reason these SOs are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next formal meeting of the Council of Governors for action or ratification. All Governors have a duty to disclose any non-compliance with these SOs to the Chair as soon as possible.
- 10.5 A Governor shall not disclose any matter reported to the Council of Governors notwithstanding that the matter has been reported or action has been concluded, if the Council of Governors shall resolve that it is confidential.

Schedule A: Declaration to the Secretary of Doncaster and Bassetlaw Teaching Hospital NHS Trust Foundation Trust

I hereby declare that I am at the date of this declaration a member of the Public/Staff/Constituency (delete as necessary), and I am not prevented from being a member of the Council of Governors by reason of any provision of the Constitution.

Signed:

Print name:

Date:

Schedule B: Prescribed Form of Declaration of Interests

Declaration to the Secretary of Doncaster and Bassetlaw Teaching Hospital NHS Trust Foundation Trust

Date

To the Secretary of **Doncaster and Bassetlaw Teaching Hospital NHS Trust Foundation Trust**

Dear

In fulfilment of the obligations imposed on me by paragraph 22 of the Constitution of the Foundation Trust and the provisions of Standing Order 6 of the Standing Orders for the Council of Governors generally, and in particular Standing Order 6.1.2, I hereby give notice to the Trust of my interest in:

[insert details of the nature and extent of the relevant interest(s) (e.g. pecuniary, non-pecuniary, direct, indirect, actual, potential, etc.)]

as of the date posted above.

I require the nature and extent of my interest(s) to be recorded in the Trust's Register of Interests of the Members of the Council of Governors.

Yours faithfully
[name]

ANNEX 8 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS

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2. THE BOARD OF DIRECTORS
3. MEETINGS OF THE TRUST
4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION
5. COMMITTEES
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8. CUSTODY OF SEAL AND SEALING OF DOCUMENTS
9. SIGNATURE OF DOCUMENTS
10. MISCELLANEOUS

1. Introduction

Statutory Framework

- 1.1 Doncaster and Bassetlaw Teaching Hospital NHS Foundation Trust became a Public Benefit Corporation on 1 April 2004 following authorisation by Monitor.
- 1.2 The principal place of business of the Trust is: Doncaster Royal Infirmary, Armthorpe Road, Doncaster, South Yorkshire.
- 1.3 The Trust is governed by the Regulatory Framework. The functions of the Trust are conferred by the Regulatory Framework. The Regulatory Framework and in particular paragraph 35 of the Constitution requires the Board of Directors to adopt Standing Orders for the regulation of its proceedings and business.1.4 As a Public Benefit Corporation, the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable.
- 1.5 The Standing Orders, Scheme of Delegation and Standing Financial Instructions provide a comprehensive business framework. All Directors, and all members of staff, should be aware of the existence of these documents and, where necessary, be familiar with the detailed provisions.
- 1.6 The Trust shall deal with the Regulator in an open and co-operative manner and shall promptly notify the Regulator of anything relating to the Trust of which the Regulator would reasonably expect prompt notice, including, without prejudice to the foregoing generality, any anticipated failure or anticipated prospect of failure on the part of the Trust to meet its obligations under its Authorisation or any financial or performance thresholds which the Regulator may specify from time to time.
- 1.7 The Chair, Chief Executive or any other person giving information to the public on behalf of the Trust shall ensure that they follow the principles set out by the Committee on Standards in Public Life (the Nolan Committee, now the Wicks Committee) and that they will adhere to the principles set out within the Independent Commission's Good Governance Standard for Public Service. They will also ensure that they follow the best practice advice set out in the Code of Governance for NHS Provider Trusts.
- 1.8 Delegation of Powers – Scheme of Delegation

Under the Standing Orders relating to the Arrangements for the Exercise of Functions by Delegation (SO 4) the Board of Directors exercises its powers to make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee appointed by virtue of SO 4 or by an Officer of the Trust, in each case subject to such restrictions and conditions as the Board of Directors thinks fit. Delegated Powers are covered in a separate document (the Scheme of Delegation). That document has effect as if incorporated into the Standing Orders.

- 1.9 In these Standing orders the definitions outlined in the constitution paragraph 1 shall apply.

2. The Board of Directors

- 2.1 All business shall be conducted in the name of the Trust.
- 2.2 All funds received in trust shall be in the name of the Trust as corporate trustee.
- 2.3 In relation to Funds held on Trust, powers exercised by the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.
- 2.4 Directors acting on behalf of the Trust as corporate trustees are acting as quasi-trustees. Accountability for charitable Funds held on Trust is to be made to the Charity Commission.
- 2.5 The powers of the Trust established under statute shall be exercised by the Board of Directors meeting in public session except as otherwise provided for in SO 3.
- 2.6 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board of Directors in formal session. These powers and decisions are set out in the Scheme of Delegation and have effect as if incorporated into the SOs.

3. Meetings of the Trust

3.1 Admission of the Public and the Press

- 3.1.1 Subject to SO 3.1.2, meetings of the Board of Directors shall be held in public, unless the Board of Directors in their absolute discretion determine that any part of a meeting of the Board of Directors shall be held in private.

- 3.1.2 Where the Board of Directors determines that meetings of the Board of Directors will be held in public, the public and representatives of the press may, at the absolute discretion of the Chair, be afforded facilities to attend a meeting of the Board of Directors but shall be required to withdraw upon the Board of Directors resolving as follows:

“That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity of which would be prejudicial to the public interest” (Section1(2) Public Bodies (Admission to Meeting) Act 1960).

- 3.1.3 The Chair shall give such directions as they think fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Board of Directors business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on

grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Board of Directors resolving as follows:

“That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Board to complete business without the presence of the public” (Section 1(8) Public Bodies (Admission to Meetings) Act 1960).

- 3.1.4 Nothing in these SOs shall require the Board of Directors to allow members of the public or representative of the press to record proceedings in any manner whatsoever, other than writing, or to make any oral report of proceedings as they take place without the prior agreement of the Board of Directors.

3.2. Calling Meetings

- 3.2.1 Ordinary meetings of the Board of Directors shall be held at such times and places as the Board of Directors may determine.
- 3.2.2 The Chair may call a meeting of the Board of Directors at any time. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of members of the Board of Directors, and this has been presented to them, or if, without so refusing, the Chair does not call a meeting within seven days after such requisition has been presented to them, at the Trust's Headquarters, such one third or more members of the Board of Directors may forthwith call a meeting.
- 3.2.3 The Trust will publicise and hold an Annual Public Meeting, which shall be on or before 30 September every year.

3.3. Notice of Meetings

- 3.3.1 Before each meeting of the Board of Directors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chair, or by an Officer of the Trust authorised by the Chair to sign on his behalf, shall be delivered to every Director, by email so as to be available to him at least 7 days before the meeting.
- 3.3.2 Want of service of the notice on any member of the Board of Directors shall not affect the validity of a meeting.
- 3.3.3 In the case of a meeting called by Directors in default of the Chair, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice.
- 3.3.4 Failure to serve such a notice on more than three Directors will invalidate the meeting. A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post.
- 3.3.5 In the event of an emergency giving rise to the need for an immediate meeting, SOs 3.3.1 to 3.3.4 shall not prevent the calling of such a meeting without the requisite 7 days' notice provided that every effort is made to make personal contact with every Director who is not absent from the United Kingdom and the agenda for the meeting is restricted to matters arising in that emergency.

3.4. Agendas

- 3.4.1 Agendas will be accessible to members of the Board of Directors six days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be accessible no later than three days before the meeting, save in emergency. Failure to serve such a notice on more than three members of the Board of Directors will invalidate the meeting. A notice shall be presumed to have been served one day after posting.
 - 3.4.2 A public notice of the time and place of the meeting, and the agenda (excluding any part of the agenda for which members of the public may be excluded from for special reasons), shall be displayed on the Trusts website at least three days before the meeting
- 3.5. Setting the Agenda
 - 3.5.1 The Chair, or in their absence the Deputy Chair, shall determine the agenda for each meeting of the Board of Directors, being advised in this regard by the Chief Executive and the Company Secretary.
 - 3.5.2 A Director desiring a matter to be included on an agenda shall make his request to the Chair at least ten Clear Days before the meeting, subject to SO 3.3. Requests made less than ten Clear Days before a meeting may be included on the agenda at the discretion of the Chair. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information.
- 3.6. Petitions
 - 3.6.1 Where a petition has been received by the Trust, the Chair shall include the petition as an item for the agenda of the next Board of Directors meeting.
- 3.7. Chair of Meeting
 - 3.7.1 At any meeting of the Board of Directors, the Chair, if present, shall preside. If the Chair is absent from the meeting, the Deputy Chair, if there is one who is present, shall preside. If the Chair and Deputy Chair are absent, such Non-Executive Director (and who is not also an Officer of the Trust) as the members of the Board of Directors present shall choose, shall preside.
 - 3.7.2 If the Chair is absent temporarily on the grounds of a declared conflict of interest, the Deputy Chair, if present, shall preside. If the Chair and Deputy Chair are absent, or are disqualified from participating, such Non-Executive Director as the members of the Board of Directors present shall choose, shall preside.
- 3.8. Chair's Ruling
 - 3.8.1 Statements of Directors made at meetings of the Trust shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be final.
- 3.9. Notices of Motion

3.9.1 Subject to the provisions of SO 3.11 and SO 3.12, a member of the Board of Directors wishing to move or amend a motion shall send a written notice to the Chair.

3.9.2 The notice shall be delivered at least 10 Clear Days before the meeting. The Chair shall include in the agenda for the meeting all notices so received that are in order and permissible under these SOs and the appropriate Regulations. Subject to SO 3.3.3, this SO shall not prevent any motion being moved without notice on any business mentioned on the agenda for the meeting.

3.10. Emergency Motions

3.10.1 Subject to the agreement of the Chair, and subject also to the provision of SO 3.11, a member of the Board of Directors may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Board of Directors at the commencement of the business of the meeting as an additional item included in the agenda. The Chair's decision to include the item shall be final.

3.11. Motions: Procedure at and during a meeting

3.11.1 Who may propose

- i) A motion may be proposed by the Chair of the meeting or any member of the Board of Directors present. It must also be seconded by another member of the Board of Directors.

3.11.2 Contents of motions

- i) The Chair may exclude from the debate at their discretion any such motion of which notice was not given on the notice summoning the meeting other than a motion relating to:
 - a) the reception of a report;
 - b) consideration of any item of business before the Board of Directors;
 - c) the accuracy of minutes;
 - d) that the Board of Directors proceed to next business
 - e) that the Board of Directors adjourn; or
 - f) that the question be put now.

3.11.3 Amendments to motions

- i) A motion for amendment shall not be discussed unless it has been proposed and seconded.
- ii) Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board of Directors

- iii) If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

3.11.4 Rights of reply to motions

- i) Amendments
 - a) The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment but may not otherwise speak on it.
- ii) Substantive/original motion
 - a) The member of the Board of Directors who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

3.11.5 Withdrawing a motion

- i) A motion, or an amendment to a motion, once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chair.

3.11.6 Motions once under debate

- i) When a motion is under debate, no motion may be moved other than:
 - a) an amendment to the motion;
 - b) the adjournment of the discussion, or the meeting;
 - c) that the meeting proceeds to the next business;
 - d) that the question should be now put;
 - e) the appointment of an 'ad hoc' committee to deal with a specific item of business;
 - f) a motion under SO 3.1.2 resolving to exclude the public (including the press); and
 - g) that a member be not further heard.
- ii) In the cases of a motion under SO 3.11.6.i)c) or SO 3.11.6.i)d), in the interests of objectivity, such a motion should only be put forward by a member of the Board of Directors who has not taken part in the debate and who is eligible to vote.
- iii) If a motion under SO 3.11.6.i)c) or SO 3.11.6.i)d) is carried, the Chair should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

- iv) The mover of a motion shall have a maximum of five minutes to move and five minutes to reply. Once a motion has been moved, no member of the Board of Directors shall speak for more than five minutes.

3.12. Motion to Rescind a Resolution

- 3.12.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member of the Board of Directors who gives it and also the signature of four other members of the Board of Directors, and before considering any such motion of which notice shall have been given, the Board of Directors may refer the matter to any appropriate committee or the Chief Executive for recommendation.
- 3.12.2 When any such motion has been dealt with by the Board of Directors, it shall not be competent for any member of the Board of Directors other than the Chair to propose a motion to the same effect within six months, however the Chair may do so if they consider it appropriate. This provision shall not apply to motions moved in pursuance of a report or recommendations of a committee or the Chief Executive.

3.13. Voting

- 3.13.1 Every question at a meeting shall be determined by a majority of the votes of the Directors present and voting on the question and, in the case of the number of votes for and against a motion being equal, the Chair of the meeting shall have a second or casting vote.
- 13.3.2 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Directors present so request.
- 13.3.3 If at least one-third of the members of the Board of Directors present so request, the voting (other than by paper ballot), on any question may be recorded to show how each Director present voted or abstained.
- 13.3.4 If a Director so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).
- 13.3.5 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 13.3.6 An Officer who has been appointed formally by the Board of Directors to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director. An Officer attending the Board of Directors to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An Officer's status when attending a meeting shall be recorded in the minutes.

3.14. Minutes

3.14.1 The minutes of the proceedings of a meeting shall be drawn up by the Company Secretary and submitted for agreement at the next ensuing meeting, where they will be signed by the person presiding at it.

3.14.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting. Minutes shall be retained via electronic form and archive.

13.14.3 Minutes shall be circulated in accordance with Directors' wishes. Where providing a record of a public meeting the minutes shall be made available to the public as required by Code of Practice on Openness in the NHS.

3.15. Suspension of Standing Orders

3.15.1 Except where this would contravene any statutory provision or any guidance or best practice advice issued by the Regulator, any one or more of the SOs may be suspended at any meeting, provided that at least two-thirds of the Directors are present, including one Executive Director and one Non-Executive Director, and that a majority of those present vote in favour of suspension.

3.15.2 A decision to suspend SOs shall be recorded in the minutes of the meeting.

3.15.3 A separate record of matters discussed during the suspension of SOs shall be made and shall be available to the Chair and the Directors.

3.15.4 No formal business may be transacted while SOs are suspended.

3.15.5 The Audit and Risk Committee shall review every decision to suspend SOs.

3.16. Variation to Standing Orders

3.16.1 Subject always to paragraph 3.15 of Annex 8 of the Constitution, these SOs shall be amended only if:

- (i) relevant notice of a meeting has been served in accordance with SO 3.3;
- (ii) a notice of motion under SO 3.9 has been given;
- (iii) no fewer than half the total of the Trust's Non-Executive Directors vote in favour of amendment;
- (iv) at least two-thirds of the Board of Directors are present; and
- (v) the variation proposed does not contravene the Regulatory Framework, any statutory provisions or any guidance issued by the Regulator.

3.17. Record of Attendance

3.17.1 The names of the Chair and the Directors present at the meeting shall be recorded in the minutes.

3.18. Quorum

- 3.18.1 No business shall be transacted at a meeting of the Board of Directors unless at least one-third of the whole number of the Directors are present including at least one Executive Director and one Non-Executive Director and the Chair.
- 3.18.2 An Officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.
- 3.18.3 If a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see SO 7) they shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one Executive Director to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting (for example when the Board of Directors considers the recommendations of the Appointment and Terms of Service Committee).
- 3.19. Meetings: Electronic Communication
- 3.19.1 In this Standing Order “communication” and “electronic communication” shall have the meanings set out in the Electronic Communications Act 2000 or any statutory modification or re-enactment thereof.
- 3.19.2 A Director in electronic communication with the Chair and all other parties to a meeting of the Board of Directors or of a committee or sub-committee of the Board of Directors shall be regarded for all purposes as personally attending such a meeting provided that, but only for so long as, at such a meeting they have the ability to communicate interactively and simultaneously with all other parties attending the meeting including all persons attending by way of electronic communication.
- 3.19.3 A meeting at which one or more of the Directors attends by way of electronic communication is deemed to be held at such a place as the Directors shall at the said meeting resolve. In the absence of such a resolution, the meeting shall be deemed to be held at the place (if any) where a majority of the Directors attending the meeting are physically present, or in default of such a majority, the place at which the Chair of the meeting is physically present.
- 3.19.4 Meetings held in accordance with this SO are subject to SO 3.18 (Quorum). For such a meeting to be valid, a quorum **MUST** be present **and maintained** throughout the meeting.
- 3.19.5 The minutes of a meeting held in this way **MUST** state that it was held by electronic communication and that the Directors were all able to hear each other and were present throughout the meeting.
- 4 Arrangements for the Exercise of Functions by Delegation**
- 4.1 Subject to SO 2.6 and such guidance as may be given by the Regulator, the Board of Directors may make arrangements for the exercise of any of its functions by a committee or sub-committee appointed by virtue of SO 4.4 below, or by a Director or an officer in each case subject to such restrictions and conditions as the Board of Directors considers appropriate.

4.2 Notwithstanding the provisions of SO 4.1, the provisions of paragraphs 4.2 to 4.3 of the Constitution apply.

4.3 Emergency Powers

4.3.1 The powers which the Board of Directors has retained to itself within these SOs may in emergency be exercised by the Chief Executive and the Chair after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board of Directors for ratification.

4.4 Delegation to Committees

4.4.1 The Board of Directors shall agree from time to time to the delegation of executive powers to be exercised by committees or subcommittees, or joint committees, which it has formally constituted. The constitution and terms of reference of these committees, or sub-committees, and their specific executive powers shall be approved by the Board of Directors.

4.5 Delegation to Officers

4.5.1 Those functions of the Trust which have not been retained as reserved by the Board of Directors or delegated to a committee or subcommittee or joint-committee shall be exercised on behalf of the Board of Directors by the Chief Executive. The Chief Executive shall determine which functions they will perform personally and shall nominate Officers to undertake the remaining functions for which they will still retain accountability to the Board of Directors.

4.5.2 The Chief Executive shall prepare a Scheme of Delegation identifying his proposals, which shall be considered and approved by the Board of Directors, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation, which shall be considered and approved by the Board of Directors as indicated above.

4.5.3 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of Directors of the Chief Finance Officer or other Executive Director to provide information and advise the Board of Directors in accordance with any statutory requirements. Outside these statutory requirements the Chief Finance Officer shall be accountable to the Chief Executive for operational matters.

4.5.4 The arrangements made by the Board of Directors as set out in the Scheme of Delegation shall have effect as if incorporated in these SOs.

4.6 Duty to Report Non-Compliance with Standing Orders

4.6.1 If for any reason these SOs are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next formal meeting of the Board of Directors for action or ratification. All members of the Board of Directors and staff have a duty to disclose any non-compliance with these SOs to the Secretary as soon as possible.

5. Committees

5.1 Appointment of Committees

- 5.1.1 Subject to SO 2.6 and such guidance issued by the Regulator, the Board of Directors may and, if directed by the Regulator, shall appoint committees of the Trust consisting wholly or partly of Directors of the Trust or other Health Service Bodies or wholly of persons who are not Directors of the Trust or other health service bodies.
- 5.1.2 A committee appointed under SO 5.1.1 may, subject to such guidance as may be given by the Regulator, the Board of Directors or the other Health Service Bodies in question, appoint sub-committees consisting wholly or partly of Directors (whether or not they are Directors of the Trust in question) or wholly of persons who are not Directors of the Trust or the committee of the Trust or the other Health Service Bodies in question.
- 5.1.3 The SOs of the Board of Directors, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Board of Directors, in which case the term "Chair" is to be read as a reference to the Chair of the committee as the context permits, and the term "member" is to be read as a reference to a member of the committee also as the context permits. (There is no requirement to hold meetings of committees, established by the Trust in public.)
- 5.1.4 Each such committee or sub-committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board of Directors), as the Board of Directors shall decide in accordance with any relevant legislation and/or regulations, and such guidance or best practice advice issued by the Regulator. Such terms of reference shall have effect as if incorporated into the SOs.
- 5.1.5 Where committees are authorised to establish sub-committees, they may not delegate Executive powers to the sub-committee unless expressly authorised by the Board of Directors.
- 5.1.6 The Board of Directors shall approve the appointments to each of the committees, which it has formally constituted. Where the Board of Directors determines, and regulations permit, that persons, who are neither Directors nor Officers, shall be appointed to a committee the terms of such appointment shall be within the powers of the Board of Directors. The Board of Directors shall define the powers of such appointees and shall agree allowances, including reimbursement for loss of earnings, and/or expenses in accordance where appropriate with national guidance.
- 5.1.7 The committees and sub-committees established by the Board of Directors are:
- i) Audit and Risk Committee;
 - ii) Nominations and Remunerations Committee;
 - ii) Finance and Performance Committee;
 - iv) Quality Committee; and
 - v) People Committee.

- vi) as Trustees on behalf of DBTH of the Trust Charity – The Charitable Funds Board

5.1.8 The terms of reference of those Committees in paragraph 5.1.7 above shall be agreed by the Board of Directors.

5.1.9 The Board of Directors may also operate as a committee in accordance with SO 5.1.2. Any decisions taken by the Board of Directors in committee (i.e. Seminar meeting of the Board of Directors) must be brought to the next meeting of the Board of Directors.

5.2 Confidentiality

5.2.1 A member of a committee shall not disclose a matter dealt with, by, or brought before, the committee without its permission until the committee shall have reported to the Board of Directors or shall otherwise have concluded on that matter.

5.2.2 A Director or a member of a committee shall not disclose any matter reported to the Board of Directors or otherwise dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Board of Directors or committee shall resolve that it is confidential.

6. Interface between the Board of Directors and the Council of Governors

6.1 The Board of Directors will cooperate with the Council of Governors as far as possible in order to comply with the Regulatory Framework in all respects and in particular in relation to the following matters which are set out specifically within the Constitution.

6.2 The Directors, having regard to the views of the Council of Governors, are to prepare the information as to the Trust's forward planning in respect of each Financial Year to be given to the regulator.

6.3 The Directors are to present to the Council of Governors at a general meeting the Annual Accounts, any report of the Auditor on them, and the Annual Report.

6.4 In order to comply with the Regulatory Framework in all respects and in particular in relation to the matters which are set out above, the Council of Governors may request that a matter which relates to paragraphs 48 and 49 of the Constitution is included on the Agenda for a meeting of the Board of Directors.

6.5 If the Council of Governors so desires, such a matter as described within SO 6.4 to be included on an Agenda item, they shall make their request in writing to the Chair at least 14 Clear Days before the meeting of the Board of Directors, subject to SO 3.3. The Chair shall decide whether the matter is appropriate to be included on the Agenda. Requests made less than 14 Clear Days before a meeting may be included on the Agenda at the discretion of the Chair.

7. Declarations of Interests and Register of Interests

7.1 The Regulatory Framework requires members of the Board of Directors to declare to the Company Secretary:

- 7.1.1 any pecuniary interest in any contract, proposed contract or other matter which is under consideration concerning the Trust or is to be considered by the Board of Directors; and
- 7.1.2 any interests including but not limited to any personal or family interests which are relevant and material to the business of the Trust irrespective of whether those interests are direct or indirect, actual or potential.
- 7.2 All existing members of the Board of Directors should declare such an interest as soon as the Director in question becomes aware of it. Any members of the Board of Directors appointed subsequently should do so on appointment.
- 7.3 Such a declaration shall be made by completing and signing a form, as prescribed by the Secretary from time to time, setting out any interests required to be declared outside a meeting in accordance with the Constitution or the SOs and delivering it to the Secretary on appointment or as soon thereafter as the interest arises, but within seven Clear Days of becoming aware of the existence of a relevant and material interest.
- 7.4 In addition, if a Director is present at a meeting of the Board of Directors and has an interest of any sort in any matter which is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not vote on any question with respect to the matter.
- 7.5 If a Director has declared a pecuniary interest in accordance with SO 7 they shall not take part in the consideration or discussion of the matter in respect of which an interest has been disclosed and shall be excluded from the meeting whilst that proposed contract is under consideration. At the time the interests are declared, they should be recorded in the Board of Director's meeting minutes. Any changes in interests should be officially declared at the next relevant meeting following the change occurring.
- 7.6 Interests which should be regarded as "relevant and material" are as follows and are to be interpreted in accordance with guidance issued by the Regulator:
 - 7.6.1 Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
 - 7.6.2 ownership, part-ownership or Directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
 - 7.6.3 majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS;
 - 7.6.4 a position of authority in a charity or voluntary organisation in the field of health and social care;
 - 7.6.5 any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services;
 - 7.6.6 any connection with an organisation, entity or company considering entering into or having entered into a financial agreement with the Trust, including but not limited to, lenders or banks;
 - 7.6.7 any other commercial interest in the decision before the meeting.

- 7.7 Any travelling or other expenses or allowances payable to a Director in accordance with the Constitution shall not be treated as a pecuniary interest.
- 7.8 Members of the Board of Directors of companies likely or possibly seeking to do business with the NHS should be published in the Annual Report. The information should be kept up to date for inclusion in succeeding Annual Reports.
- 7.9 A Director shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
- 7.9.1 they, or a nominee of theirs, is a Director of a company or other body, not being a public body, with which the contract was made or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration; or
 - 7.9.2 they are a partner of or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.
- 7.10 A Director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
- 7.10.1 of their membership of a company or other body, if they have no beneficial interest in any securities of that company or other body; or
 - 7.10.2 of an interest in any company, body or person with which they are connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Director in the consideration or discussion of or in voting on, any question with respect to that contract or matter.
- 7.11. Where a Director:
- 7.11.1 has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
 - 7.11.2 the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
 - 7.11.3 if the share capital is of more than one class, the total nominal value of shares of any one class in which they have a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,
- the Director shall not be prohibited from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to their duty to disclose their interest.
- 7.12 In the case of persons living together the interest of one partner or spouse shall, if known to the other, be deemed for the purposes of the Constitution and the SOs to be also an interest of the other.
- 7.13. If Directors have any doubt about the relevance or materiality of an interest, this should be discussed with the Chair. Influence rather than the immediacy of the relationship is more

important in assessing the relevance of an interest. The interests of partners in professional partnerships should also be considered.

7.14. Any remuneration, compensation or allowances payable to a Director by virtue of paragraph 18 of Schedule 7 of the 2006 Act shall not be treated as a pecuniary interest for the purpose of this SO.

7.15. SO 7 applies to any committee, sub-committee of the Board of Directors and applies to any member of any such committee or sub-committee (whether or not they are also a Director).

7.16 Register of Interests

7.16.1 The Register of Interests shall contain the names of each Director, whether they have declared any interests and, if so, the interests declared in accordance with the Constitution or these SOs.

7.16.2 It is the obligation of the Director to inform the Company Secretary in writing within seven Clear Days of becoming aware of the existence of a relevant or material interest. The Secretary must amend the appropriate Register of Interests upon receipt of new or amended information as soon as is practical and, in any event, within fourteen Clear Days.

7.16.3 The Register of Interests will be available to the public and the Chief Executive will take reasonable steps to bring the existence of the Register of Interests to the attention of the local population and to publicise arrangements for viewing it. Copies or extracts of the Register of Interests must be provided to Members free of charge and within a reasonable time period of the request. A reasonable charge may be imposed on non-members for copies or extracts of the Register of Interests

7.16.4 The details of Directors' interests recorded in the Register of Interests will be kept up to date by means of a regular review as necessary of the Register of Interests by the Company Secretary during which any changes of interests recently declared will be incorporated.

8. Standards of Business Conduct Policy

8.1 Policy

8.1.1 Directors and Officers should comply with the Code of Governance for NHS Provider Trusts, the Trust Code of Conduct and any guidance and/or best practice advice issued by the Regulator. This section of SOs should be read in conjunction with these documents.

8.2 Interest of Directors and Employees in Contracts

8.2.1 If it comes to the knowledge of Director or an officer of the Trust that a contract in which they have any pecuniary interest not being a contract to which they themselves are a party, has been, or is proposed to be, entered into by the Trust they shall, at once, give notice in writing to the Chief Executive or Secretary of the fact that they are interested therein. In the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

- 8.2.2 A Director or officer must also declare to the Chief Executive or Secretary any other employment or business or other relationship of theirs, or of a cohabiting spouse or partner, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust in accordance with SO 7. The Trust shall require such interests to be recorded in the Register of Directors interests.

8.3. Canvassing of, and Recommendations by, Directors in Relation to Appointments

- 8.3.1 Canvassing of Directors or members of any committee of the Board of Directors directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of these SOs shall be included in application forms or otherwise brought to the attention of candidates.
- 8.3.2 A Director of the Board of Directors shall not solicit for any person any appointment under the Trust or recommend any person for such appointment: but this paragraph of this SO shall not preclude a Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust in relation to any appointment.
- 8.3.3 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

8.4. Relatives of Directors or Officers

- 8.4.1 Candidates for any staff appointment shall when making an application disclose in writing whether they are related to any Director or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render them liable to instant dismissal.
- 8.4.2 The Directors and every member and Officer of the Trust shall disclose to the Chief Executive any relationship between himself and a candidate of whose candidature that member or Officer is aware. It shall be the duty of the Chief Executive to report to the Trust any such disclosure made.
- 8.4.3 On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Board of Directors whether they are related to any other member of the Board of Directors or holder of any office in the Trust.
- 8.4.4 Where the relationship to an Officer or another Director to a Director of the Trust is disclosed, SO 8 shall apply.

8.5. External Consultants

- 8.5.1 SO 7 and SO 8 will apply equally to all external consultants or other agents acting on behalf of the Trust. The Trust's Scheme of Delegation should be adhered to at all times.

9. Custody of Seal and Sealing of Documents

9.1 Custody of Seal

- 9.1.1 The common seal of the Trust shall be kept by the Company Secretary in a safe at Trust Headquarters. The seal shall only be released from the safe to enable it to be affixed to a document in accordance with these Standing Orders.

9.2 Sealing of Documents

- 9.2.1 The common seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board of Directors or of a committee, thereof or where the Board of Directors has delegated its powers.
- 9.2.2 Where it is necessary that a document shall be sealed the seal shall be affixed in the presence of two Directors or a Director and the Secretary duly authorised by the Chief Executive and not also from the originating department and shall be attested by them.
- 9.2.3 Before any building, engineering, property or capital document is sealed it must be approved and signed by the Chief Finance Officer (or an Officer nominated by him/her) and authorised and countersigned by the Chief Executive (or an Officer nominated by him/her who shall not be within the originating Directorate).

9.3 Register of Sealing

- 9.3.1 An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal. A report of all sealing shall be made to the Board of Directors at least annually (The report shall contain details of the seal number, the description of the document and date of sealing).
- 9.3.2 Every contract for building and engineering works, which exceeds the sum of £250,000 shall be executed under the common seal of the Trust.
- 9.3.3 The Officer responsible for the register of the opening of tender/quotation envelopes shall retain this under secure custody and will make it readily available to external and internal audit for inspection as required.
- 9.3.4 Trust officers issuing and receiving the tender/quotation documents shall retain those documents and envelopes under secure custody, for the following periods:
 - i) for documents under seal, 12 years; and
 - ii) for documents under hand, 6 years.

10. Signature of Documents

- 10.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the Chief Executive, unless any enactment otherwise requires or authorises, or the Board of Directors shall have given the necessary authority to some other person for the purpose of such proceedings.
- 10.2 The Chief Executive or Nominated Officers shall be authorised, by resolution of the Board of Directors, to sign on behalf of the Trust any agreement or other document (not required to be executed as a deed) the subject matter of which has been

approved by the Board of Directors or committee or sub-committee to which the Board of Directors has delegated appropriate authority.

11. Miscellaneous

11.1 Standing Orders to be given to Members and Officers

11.1.1 It is the duty of the Chief Executive to ensure that existing Directors and Officers and all new appointees are notified of and understand their responsibilities within Standing Orders and SFIs. Updated copies shall be issued to Officers designated by the Chief Executive. New designated Officers shall be informed in writing and shall receive copies, where appropriate, of SOs.

11.2 Documents having the standing of Standing Orders Standing Financial Instructions and the Scheme of Delegation shall have the effect as if incorporated into SOs.

11.3 Standing Orders shall be reviewed annually by the Trust. The requirement for review extends to all documents having the effect as if incorporated in SOs.

ANNEX 9 –ANNUAL MEMBERS’ MEETING

1. ANNUAL MEMBERS’ MEETING

- 1.1 The Trust shall publicise and hold an annual meeting of its members (‘Annual Members’ Meeting’) prior to 30 September each year (unless the circumstances of para 16.5 apply).
- 1.2 The following documents are to be presented to the members and governors of the Trust at the Annual Members’ Meeting by at least one member of the Board of Directors in attendance.
 - 1.2.1 the annual accounts;
 - 1.2.2 any report of the External auditor on them; and
 - 1.2.3 the annual report.
- 1.3 There may be times and reasons that the Annual Members’ Meeting may be held “virtually online” and not face to face. The Chair will decide these times in consultation with the Lead Governor and Board of Directors.

2. ADMISSION OF THE PUBLIC AND PRESS

- 4.3 Members, the public and representatives of the press shall be afforded facilities to attend the Annual Members’ Meeting.
- 4.4 The Chair (or Deputy Chair) shall give such directions as s/he thinks fit in regard to the arrangements for meetings and accommodation of members, the public and representatives of the press such as to ensure that business shall be conducted without interruption and disruption.
- 4.5 Members, the public or representatives of the press are not permitted to record proceedings in any manner unless with the express prior agreement of the Chair (or Deputy Chair). Where permission has been granted, the Chair (or Deputy Chair) retains the right to give directions to halt recording of proceedings at any point during the meeting. For the avoidance of doubt, “recording” refers to any audio or visual recording, including still photography, or use of social media.

5. CHAIR

- 5.1 The Chair, if present, shall preside at the annual members meeting. If the Chair is absent from the meeting the Deputy Chair shall preside.
- 5.2 If the Chair is absent from a meeting temporarily on the grounds of a declared conflict of interest the Deputy Chair, if present, shall preside.

6. NOTICE OF MEETING

- 6.1 The Company Secretary shall give at least fourteen days’ notice of the date and place of the Annual Members’ Meeting to all Governors. Notice will also be published in communications to Trust members and on the Trust’s website.

- 6.2 The notice of the meeting will specify the business proposed to be transacted at it
- 6.3 Lack of service of the notice on any Governor shall not affect the validity of a meeting.
- 6.4 Before the Annual Members' Meeting, a notice of the meeting, specifying the business proposed to be transacted at it, shall be placed on the Trust's website and shall be delivered to every Governor by e-mail or sent by post to the usual place of residence of such Governor if e-mail facility not available, so as to be available to him/her at least three clear days before the meeting.

Where the AMM is held virtually, members will have opportunities to ask questions on the business transacted before and after the meeting presentations by submitting directly to the AMM website and/or via the Trust Board Office.

7. PRESENTATION OF THE ANNUAL ACCOUNTS AND REPORTS

- 7.1 The following documents are to be presented to the members of the Trust at the Annual Members' Meeting by at least one member of the Board of Directors in attendance.

- 7.1.1 the annual accounts;
- 7.1.2 any report of the auditor on them; and
- 7.1.3 the annual report.

8. AMENDMENT OF THE CONSTITUTION

- 8.1 Where an amendment is made to the Constitution in relation the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

- 8.1.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment(s), and
- 8.1.2 the Trust must give the members an opportunity to vote on whether they approve the amendment.

- 8.2 If more than half of the members present and voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the trust must take such steps as are necessary as a result.

9. QUORUM

- 9.1 There may be times and reasons why the AMM is held "virtually online" and not in person. The Chair will decide these times in consultation with the Lead Governor and quoracy arrangements dependant on the nature of the business transacted.

- 9.2 In extremis (*see para 16.5*), the Chair may decide to review the terms of the meeting.

- 9.3 Where the Annual Members' Meeting is combined with a Council of Governors meeting for the purpose of receiving the annual accounts and reports, the quorum of the Council of Governors shall apply.

10. VOTING

- 10.1 Every question for decision at a meeting will be determined by a majority of the votes of the members present and voting on the question and, in the case of an equality of votes, the person presiding shall have a second or casting vote.
- 10.2 As members, governors may vote at the Annual Members' Meeting except where the matter under consideration is a Constitution amendment regarding the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust).
- 10.3 With the exception of the Chair, Directors may not vote at the Annual Members' Meeting.
- 10.4 All questions put to the vote shall, at the discretion of the Chair, be determined by oral expression or by a show of hands.
- 10.5 If a majority of the members present so request, the voting on any question may be recorded to show how each member present voted or abstained.
- 10.6 If a member so requests, his/her vote shall be recorded by name upon any vote
- 10.7 In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.

11. MINUTES

- 11.1 The names of Governors, Directors and Members present at the meeting shall be recorded. However, if meeting is held virtually then monitoring of "virtual views" will be performed by a member of the Communications team and information given to both Chair and Company Secretary.
- 11.2 The Minutes of the proceedings of a meeting shall be drawn up and maintained as a public record and submitted for final agreement at the next ensuing meeting where they will be signed by the person presiding at it.
- 11.3 They may be circulated for information prior to the next year's meeting and interim agreement of accuracy acknowledged by the Council of Governors (CoG).
- 11.4 Minutes shall be made available to the public in draft (interim CoG accuracy approved) format and then once finally approved at the next AMM, unless AMM was held virtually where agreement of accuracy will be acknowledged by the Council of Governors.
- 11.5 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded.

12. AGENDA

- 12.1 A governor or member desiring a matter to be included on an agenda shall make his/her request in writing to the Chair at least ten clear days before the meeting is notified to Governors and members. Requests made less than ten days before a meeting is notified to Governors may be included on the agenda at the discretion of the Chair.

13. MOTIONS

- 13.1 A Governor or member of the Trust desiring to move or amend a motion shall send a written notice thereof at least ten clear days before the meeting is notified to Governors to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being

permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved without notice during the meeting, on any business mentioned on the agenda.

- 13.2 A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chair.
- 13.3 The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.
- 13.4 When a motion is under discussion or immediately prior to discussion it shall be open to a Governor or member to move:
 - (i) An amendment to the motion.
 - (ii) The adjournment of the discussion or the meeting.
 - (iii) The appointment of an ad hoc committee to deal with a specific item of business.
 - (iv) That the meeting proceed to the next business.*
 - (v) That the motion be now put to a vote.*

In the case of sub-paragraphs denoted by * above, to ensure objectivity motions may only be put by a Governor who has not previously taken part in the debate.

- 13.5 No amendment to the motion shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the motion.

14. CHAIR'S RULING

- 14.1 Statements of Governors and members shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.