



Lincolnshire Partnership NHS Foundation Trust (LPFT)

Trust Constitution

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LINCOLNSHIRE PARTNERSHIP NHS FOUNDATION TRUST CONSTITUTION

1 Interpretation and definitions

- 1.1 Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in this Constitution shall bear the same meaning as in the National Health Service Act 2006 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 Headings are for ease of reference only and are not to affect interpretation.
- 1.4 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.
- 1.5 All Annexes referred to in this Constitution form part of it.
- 1.6 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.
- 1.7 In this Constitution:

"the 2006 Act"

means the National Health Service Act 2006;

"the 2012 Act"

means the Health and Social Care Act 2012;

"Accounting Officer"

means the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act;

"Annual Accounts"

means those accounts prepared by the Trust pursuant to paragraph 25 of Schedule 7 of the 2006 Act;

"Annual Members' Meeting"

has the meaning ascribed to it in paragraph 14 of this Constitution;

"Annual Public Meeting"

means an annual meeting of the Council of Governors, an annual meeting of the Board of Directors and the Annual Members' Meeting all held on the same day and for the avoidance of doubt, collectively referred to as the Annual Public Meeting;

"Annual Report"

means a report prepared by the Trust pursuant to paragraph 26 of Schedule 7 to the 2006 Act;

"Applicant NHS Trust"

means the Lincolnshire Partnership NHS Trust as established by the Lincolnshire Healthcare National Health Service Trust (Establishment Order 2001 (SI 2001/221), as amended by the Lincolnshire Healthcare National Health Service Trust (Change of Name) Order 2002 (SI 2002/981), which has made the application to become a Foundation Trust;

"Appointed Governor"

means a Local Authority Governor or a Partnership Governor;

"Area of the Trust"

means the area, consisting of all the areas, specified in Annex 1 of this Constitution, as an area for a Public Constituency;

"Auditor"

means the auditor of the Trust appointed by the Council of Governors pursuant to paragraph 39 of this Constitution;

"Audit Committee"

means a committee of the Board of Directors as established pursuant to paragraph 40 of this Constitution;

"Authorisation"

means the authorisation of the Trust by Monitor under section 35 of the 2006 Act;

"Board of Directors"

means the Board of Directors of the Trust as constituted in accordance with this Constitution;

"Boston Borough Council"

means the Borough Council for Boston with offices at Municipal Buildings, West Street, Boston, Lincolnshire, PE21 8QR;

"Budget"

means a resource, expressed in financial terms, proposed by the Board of Directors for the purpose of carrying out, for a specific period, any or all of the functions of the Trust;

"Care Plan"

means a summary of all of the services, support and treatment that has been organised to help a Service User with their problems. A Service User will be involved in organising their care plan and will receive a copy when it has been agreed by all involved;

"Carer"

means, subject as may otherwise be provided by the 2006 Act, an individual who (1) provides care to a Service User and has attended any of the Trust's Hospitals as the carer or advocate of that Service User within the period of five years immediately preceding the date of that individual's application to become a member of the Service Users' and Carers' Constituency, other than an individual providing care in pursuance of a contract (including a contract of employment) or as a volunteer for a Voluntary Organisation (but for the avoidance of doubt an individual in receipt of carer allowance is not excluded), and who has attended a Trust Hospital in the capacity of the carer of that Service User on at least one occasion in the period of five years immediately

preceding the date of an application made by them to become a Member of the Trust;
and (2) who is identified as the carer or advocate of that Service User in that Service User's Care Plan;

"Chair"

means the Chair of the Trust;

"Chief Executive"

means the Chief Executive of the Trust;

"City of Lincoln Council"

means the City Council for City of Lincoln with offices at City Hall Beaumont Fee, Lincoln, LN1 1DD;

"Clear Day"

means a day of the week not including Saturday, Sunday or a public holiday;

"Code of Conduct"

means any code which the Trust may publish from time to time to govern or guide the conduct of the Council of Governors, Directors and Officers of the Trust;

"Constitution"

means this Constitution together with the annexes attached hereto;

"Council of Governors"

means the Council of Governors of the Trust as constituted in accordance with this Constitution;

"Deputy Chair"

means the Deputy Chair of the Trust;

"Director"

means a member of the Board of Directors and includes both Executive Directors and Non-Executive Directors;

"Directors' Code of Conduct"

means the Code of Conduct for Directors of the Trust as amended from time to time by the Board of Directors which all Directors must subscribe to;

"East Lindsey District Council"

means the District Council for East Lindsey with offices at Tedder Hall, Manby Park, Louth, Lincolnshire, LN11 8UP;

"Electoral Roll"

means the "Register of Electors" maintained under Section 9 of the Representation of the Peoples Act 1983;

"Elected Governor"

means a Public Governor, a Service Users' and Carers' Governor or a Staff Governor;

"Executive Director"

means an Executive Director of the Trust;

"Finance Director"

means the Finance Director of the Trust;

"Financial Year"

means:

(a) a period beginning with the date on which the Trust is authorised as an NHS Foundation Trust and ending with the next 31st March; and

(b) each successive period of twelve months beginning with 1st April;

"Forward Plan"

means the document prepared by the Trust pursuant to paragraph 27 of Schedule 7 to the 2006 Act;

"Funds held on Trust"

means those funds which the Trust holds at its date of Authorisation, receives on distribution by statutory instrument, accepted under powers derived under paragraph

14(2)(c) of Part 2, Schedule 4 of the 2006 Act and those accepted under Section 47(2)(c) of the 2006 Act. Such funds may or may not be charitable;

"Geographical Locality"

has the meaning ascribed to it on the Trust's website, which the Trust may vary from time to time at its absolute discretion;

"Governor"

means a member of the Council of Governors and includes both Elected Governors and Appointed Governors;

"Governors' Code of Conduct"

means the Code of Conduct for Governors of the Trust as adopted by the Applicant NHS Trust and as amended from time to time by the Trust, which all Governors must subscribe to;

"Health Overview and Scrutiny Committee"

means a local authority overview and scrutiny committee established pursuant to section 21 of the Local Government Act 2000;

"Health Service Body"

shall have the meaning ascribed to NHS Body in section 275 of the 2006 Act;

"Hospital"

means those premises set out in Article 3(2) of the Lincolnshire Healthcare National Health Service Trust (Establishment) Order 2001 (SI 2001/221) and all associated hospitals and facilities at which the Applicant NHS Trust or (as the case may be) the Trust provides and/or manages the provision of goods and/or services;

"Immediate Family Member"

means either:

- (a) a spouse;
- (b) a person (whether or not of the opposite sex) whose status is that of "Partner" as defined in the Civil Partnerships Act 2004;
- (c) a child; or

(d) a parent;

"Lincolnshire County Council"

means the County Council for the County of Lincolnshire established pursuant to the Local Government Act 1992;

"Lincolnshire Integrated Care Board"

means the integrated care board that is established under the legislation contained within the Health and Care Act 2022, or its successor bodies. The integrated care board is responsible for developing a plan for meeting the health needs of the population, managing the NHS budget and arranging for the provision of health services in the integrated care system area;

"Lincolnshire Partnership NHS Foundation Trust Volunteers"

means an unincorporated organisation consisting of individuals who are Trust volunteers and have their name included on the Trust's register of volunteers;

"Lincolnshire Police"

means the police force maintained for the County of Lincolnshire pursuant to the Police Act 1996;

"Local Authority Governor"

means a member of the Council of Governors appointed by the one or more local authorities whose area includes the whole or part of the Area of the Trust in accordance with the provisions of this Constitution and as specified in Annex 4 of this Constitution;

"Member"

means a Member of the Trust;

"Members' Meetings"

includes both the Annual Members' Meeting and any Special Members' Meeting;

"Model Rules for Elections"

means the election rules set out in Annex 5 of this Constitution;

“Monitor”

is the body corporate known as Monitor, as provided by Section 61 of the 2012 Act from 1 April 2016 part of NHS England/Improvement;

"Motion”

means a formal proposition to be discussed and voted on during the course of a meeting;

"NHS Foundation Trust Code of Governance"

means the best practice advice published by the Regulator in July 2014, as may be amended, varied or replaced by the Regulator or any subsequent regulatory body from time to time;

"Nominated Officer"

means an Officer charged with the responsibility for discharging specific tasks within the Standing Orders and the Standing Financial Instructions;

"Nominations and Remuneration Committee"

means a committee of the Council of Governors appointed pursuant to paragraph 28.7 of this Constitution;

"Non-Executive Director"

means a Non-Executive Director of the Trust;

"North Kesteven District Council”

means the District Council for North Kesteven with offices at Kesteven Street, Sleaford, NG34 7EF;

"Officer”

means an employee of the Trust or any other person holding a paid appointment or office with the Trust;

“Partnership Governor"

means a member of the Council of Governors other than:

- (a) a Public Governor;

- (b) a Staff Governor;
- (c) a Service Users' and Carers' Governor; or
- (d) a Local Authority Governor;

"Partnership Organisation"

means an organisation that may appoint Partnership Governors and which is specified in Annex 4 of this Constitution;

"Public Governor"

means a member of the Council of Governors elected by the members of the Public Constituency;

"Public Constituency"

has the meaning ascribed to it in paragraph 7.2 of this Constitution;

"Regulatory Framework"

means the 2006 Act, the 2012 Act and the Trust's Constitution;

"Replacement Governor"

has the meaning ascribed to it in paragraph 16.8.1 of this Constitution;

"Reserve Chair"

means the person appointed in accordance with paragraph 29.3 of this Constitution to preside at meetings of the Council of Governors in the circumstances set out in that paragraph;

"Reserve Governor"

has the meaning ascribed to it in paragraph 16.8.2 of this Constitution;

"Resolution Meeting"

has the meaning ascribed to it in paragraph 2.4.2.1 of Annex 8 of this Constitution;

"Scheme of Delegation"

means the Reservation of Powers to the Board of Directors and Delegation of Powers;

"Secretary"

means the secretary of the Trust or any other person other than a Governor, the Chief Executive or the Finance Director appointed by the Trust to perform the duties of the Secretary of the Trust as set out in this Constitution and in Appendix A of the NHS Foundation Trust Code of Governance;

"Senior Independent Director"

has the meaning ascribed in paragraph A.3 of the NHS Foundation Trust Code of Governance;

"Service Users"

means an individual who has attended and received treatment at any of the Trust's Hospitals as a patient within the period of five years immediately preceding the date of an application made by them to become a Member of the Trust;

"Service Users' and Carers' Governor"

means a member of the Council of Governors elected by the members of the Service Users' and Carers' Constituency;

"Service Users' and Carers' Constituency"

has the meaning ascribed to it in paragraph 10.3 of this Constitution, and shall have the same meaning as the "patients' constituency" in paragraph 4 of Schedule 7 to the 2006 Act;

"Sex Offenders Order"

means either:

- (a) a Sexual Offences Prevention Order made under either section 104 or Section 105 of the Sexual Offences Act 2003, or
- (b) an Interim Sexual Offences Prevention Order made under Section 109 of the Sexual Offences Act 2003; or
- (c) a Risk of Sexual Harm Order made under section 123 of the Sexual Offences Act 2003; or
- (d) An interim Risk of Sexual Harm Order made under Section 126 of the Sexual Offences Act 2003;

"Sex Offenders Register"

means the notification requirements set out in Part 2 of the Sexual Offences Act 2003, commonly known as the Sex Offenders Register;

"Significant Transaction"

is defined in paragraph 46.3 of this Constitution;

"Shine Lincolnshire"

means the Shine mental health support network established as an independent, unincorporated association of groups and organisations interested in supporting people in Lincolnshire with mental health problems and their carers whose offices are located at 20-22 Crofton Road, Allenby Industrial Estate, Lincoln, Lincs, LN2 4WJ;

"SOs"

means the Standing Orders of the Council of Governors and/or the Board of Directors as applicable in Annex 6 and/or Annex 7 of this Constitution;

"South Holland District Council"

means the District Council for South Holland with offices at Priory Road, Spalding, PE11 2XE;

"South Kesteven District Council"

means the District Council for South Kesteven with offices at St Peter's Hill, Grantham, Lincolnshire, NG31 6PZ;

"Special Members' Meeting"

has the meaning ascribed to it in paragraph 14.2 of this Constitution;

"Staff Classes"

means a class of the Staff Constituency as specified in Annex 2;

"Staff Constituency"

has the meaning ascribed to it in paragraph 8.2 of this Constitution;

"Staff Governor"

means a member of the Council of Governors elected by the members of one of the Staff Classes of the Staff Constituency;

"Standards Committee"

means the Standards Committee of the Trust;

"Standing Financial Instructions"

means the standing financial instructions of the Trust and the phrase "SFIs" shall be construed accordingly;

"Standing Orders for the Board of Directors"

has the meaning ascribed to it in paragraph 33 of this Constitution;

"Standing Orders for the Governors"

has the meaning ascribed to it in paragraph 21 of this Constitution;

"Trust"

means Lincolnshire Partnership NHS Foundation Trust;

"Trust Headquarters"

means Trust Headquarters, St George's Hospital, Long Ley Road, Lincoln, LN1 1FS or any subsequent location from which the Board operates;

"United Lincolnshire Hospitals NHS Trust"

means the NHS Trust of that name established by the United Lincolnshire Hospitals National Health Service Trust (Establishments) Order 2000 (SI 2000/410) as amended by the United Lincolnshire Hospitals National Health Service Trust (Establishment) Amendment Order 2001 (SI 2001/154);

"University of Lincoln"

means the university of that name recognised by the Secretary of State under section 216(1) of the Education Reform Act 1998 and the Education (Recognised Bodies) (England) Order 2003 (SI 2003/1865) whose main campus is at Brayford Pool, Lincoln, LN6 7TS;

"Voluntary Organisation"

means a body, other than a public or local authority, the activities of which are not carried on for profit.

"West Lindsey District Council

means the District Council for West Lindsey with offices at Guildhall Marshalls Yard, Gainsborough, Lincolnshire, DN21 2NA;

2 Name

2.1 The name of the NHS Foundation Trust shall be "Lincolnshire Partnership NHS Foundation Trust".

3 Principal and other purposes

3.1 The principal purpose of the Trust shall be 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 purpose of the Health Service in England is greater than its total income from the provision of goods and services for any other purpose.

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

- 3.5 The Trust may carry out research in connection with the provision of health care and make facilities and staff available for the purposes of education, training or research carried on by others.
- 3.6 The Trust may fulfil the social care functions of any local authority as specified by an agreement made under Section 75 of the 2006 Act.
- 3.7 The Trust may also undertake activities other than those mentioned in paragraphs 3.1 to 3.6 above. These activities must be for the purpose of making additional income available in order to better carry on the Trust's principal purpose.

4 Powers

- 4.1 The Trust is to have all the powers of an NHS foundation trust set out in the 2006 Act as amended
- 4.2 All 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 the 2006 Act or the 2012 Act and to paragraph 4.4 below, any of these powers may be delegated to a committee of Directors or to an Executive Director.
- 4.4 Where the Trust is exercising functions of the managers pursuant to section 23 of the Mental Health Act 1983 (as amended), those functions may be exercised by any three or more persons authorised by the Board of Directors, each of whom must be neither an Executive Director of the Trust, nor an employee of the Trust.

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;

5.1.2 the Staff Constituency; or

5.1.3 the Service Users' and Carers' Constituency.

6 Application for membership

6.1 Subject to paragraph 9 below, an individual who is eligible to become a Member of the Trust may do so on application to the Trust as set out in paragraphs 7, 8 and 10 below.

6.2 Applications for membership shall be dealt with by the Trust in accordance with the provisions of paragraph 1 of Annex 8.

7 Public Constituency

7.1 Subject to the provisions of paragraphs 7.4 to 7.7, 11.3 to 11.5 and 12 below, an individual who lives in an area specified in columns 1 and 2 of Annex 1 as an area for a public constituency may become or continue as a Member of the Trust.

7.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the "Public Constituency".

7.3 The minimum number of Members in each Public Constituency is specified in column 3 of Annex 1.

7.4 For the purposes of determining whether an individual lives in the Area of the Trust, an individual shall be deemed to do so if;

7.4.1 their name appears on the Electoral Roll at an address within the relevant Area of the Trust and the Trust has no reasonable cause to conclude that the individual is not living at that address; or

7.4.2 the Trust is otherwise satisfied that the individual lives in the Area of the Trust.

- 7.5 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 paragraph 7.7 below.
- 7.6 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 Secretary shall forthwith remove their name from the register of Members unless the Secretary is satisfied that the individual concerned lives in some other area of a Public Constituency of the Trust. Where the Secretary is satisfied that such an individual continues to live in the area of a Public Constituency of the Trust the Secretary 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 Secretary has given that individual not less than 14 days notice of its intention to do so.
- 7.7 Where a Member ceases to live temporarily in the area of the Public Constituency of which they are a Member, the Trust may at its absolute discretion permit that individual nonetheless to remain on the register of Members for that Public Constituency if it is satisfied that the absence is of a temporary duration only and for good cause, 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.

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 12 months; or
- 8.1.2 they have been continuously employed by the Trust under a contract of employment for at least 12 months.

- 8.2 Those individuals who are eligible for membership of the Trust by reason of the previous provisions of this paragraph 8 are referred to collectively as the "Staff Constituency".
- 8.3 Subject to the provisions of paragraph 4 of Annex 2, the Staff Constituency shall be divided into descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a Staff Class within the Staff Constituency.
- 8.4 The minimum number of Members in each Staff Class of the Staff Constituency is specified in Annex 2.
- 8.5 For the purposes of paragraph 8.1 above, 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.
- 8.6 Individuals who are eligible to be a member of the Staff Constituency may not become or continue as a member of more than one Staff Class, and individuals who are eligible to join more than one Staff Class, shall be allocated by the Secretary in the Secretary's absolute discretion to the Staff Class for which they are primarily employed by the Trust.
- 8.7 Subject to paragraph 8.8 below, 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 this paragraph 8 and of Annex 2.
- 8.8 Notwithstanding paragraph 8.7 above, where an individual ceases to be eligible for membership of a Staff Class, but is nevertheless eligible for membership of some other Staff Class then the Trust may at its absolute discretion give notice to that Member of its intention to transfer them 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 specified amend the register of Members accordingly.

9 Automatic membership by default – Staff Constituency

- 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,
 - 9.1.3 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 he informs the Trust that he does not wish to do so.
- 9.2 The process by which an individual shall be invited to become a member of the Staff Constituency shall be in accordance with the provisions of paragraph 1.3 of Annex 8.

10 Service Users' and Carers' Constituency

- 10.1 Subject to the provisions of paragraphs 10.9 and 10.10, 11.3 to 11.5 and 12 below, an individual who has, within the period specified in paragraph 10.2 below, attended any of the Trust's Hospitals as either a Service User or as the Carer of a Service User may become or continue as a Member of the Trust.
- 10.2 The period referred to in paragraph 10.1 above shall be the period of 5 years immediately preceding the date of the application by the Service User or Carer to become a Member of the Trust and a member of the Service Users' and Carers' Constituency.
- 10.3 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the "Service Users' and Carers' Constituency".
- 10.4 Subject to the provisions of paragraph 7 of Annex 3, the Service Users' and Carers' Constituency shall be divided into five descriptions of individuals who are eligible for membership of the Service Users' and Carers' Constituency, each description of individuals being specified within Annex 3 and being referred to as a class within the Service Users' and Carers' Constituency.

- 10.5 An individual providing care in pursuance of a contract (including a contract of employment) with a Voluntary Organisation or as a volunteer for a Voluntary Organisation does not come within the category of those who qualify for membership of the Service Users' and Carers' Constituency.
- 10.6 The minimum number of members in each class of the Service Users' and Carers' Constituency is specified in Annex 3.
- 10.7 Where an individual is eligible for admission to both the Public Constituency and the Service Users' and Carers' Constituency, they may specify which constituency and where applicable, the class of that constituency they wish to belong to, either in their application or subsequently in writing but once they have made such a specification they shall not be entitled to subsequently change constituencies or the class within that constituency unless they shall cease to be a Member of the constituency, or class within that constituency of which they have chosen to be a Member.
- 10.8 If such an individual does not specify, in accordance with paragraph 10.7 above, or their specification is unclear, they will be allocated by the Secretary to one or other constituency and, where applicable, class within a constituency in the Secretary's absolute discretion.
- 10.9 Where in the reasonable opinion of the Trust an individual is no longer eligible to continue as a Member of the Service Users' and Carers' Constituency, it shall be at liberty to remove that individual from the register of Members and that individual shall thereupon cease to be a Member of the Trust, but this power may not be exercised until the Trust has given not less than 14 days written notice to that Member addressed to them at the address given in the register of Members of its intention to remove them from the register of Members and that Member has not within the period specified in the notice, confirmed to the Trust they wish to continue as a Member of the Service Users' and Carers' Constituency and has provided proof satisfactory to the Trust of their continued eligibility.
- 10.10 A Member of the Service Users' and Carers' Constituency who qualified for membership of a class within the constituency but who, in the reasonable opinion of the Trust, and having regard to all the circumstances, ought more properly to be a Member of some other class within the constituency having regard to the provisions

of Annex 3 may be transferred to that other class by the Trust upon giving that individual not less than 21 days notice of its intention to do so and upon the expiration of that notice period, the Trust shall amend the register of Members accordingly.

11 Restriction on membership

- 11.1 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.
- 11.2 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.
- 11.3 Subject to the provisions of paragraphs 7.4 to 7.7, 8.7, 8.8, 10.9 and 10.10, an individual shall not be eligible for membership of the Trust if he or she:
- 11.3.1 is under 12 years of age at the date of their application or invitation to become a Member (as the case may be);
 - 11.3.2 fails or ceases to fulfil the criteria for membership of any of the Public Constituency, the Staff Constituency, or the Service Users' and Carers' Constituency;
 - 11.3.3 has been placed on the Sex Offenders Register or is the subject of a Sex Offenders Order;
 - 11.3.4 demonstrated aggressive or violent 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 he has been asked to leave, has been removed or excluded from any Hospital in accordance with the relevant Trust policy for withholding treatment from violent/aggressive patients;
 - 11.3.5 has been confirmed as a "vexatious complainant" in accordance with the Trust's policy for handling complaints;

- 11.3.6 has been removed as a Member of the Trust or another NHS foundation trust;
- 11.3.7 is deemed to have acted in a manner contrary to the interests of the Trust.
- 11.4 Where the Trust is on notice that a Member may be disqualified from membership, or may no longer be eligible to be a Member the Secretary shall carry out all reasonable enquires to establish if that is the case and if satisfied, the Secretary shall give the Member 14 days written notice to show cause why his name should not be removed from the register of Members. On receipt of any such information supplied by the Member, the Secretary may, if he considers it appropriate, remove the Member from the register of Members. In the event of any dispute the Secretary shall refer the matter for dispute resolution in accordance with paragraph 2.5 of Annex 8.
- 11.5 All Members of the Trust shall be under a duty to notify the Secretary of any change in their particulars which may affect their entitlement as a Member.

12 Expulsion from membership of the Trust

- 12.1 A Member may be expelled by a resolution approved by not less than two-thirds of the members of the Council of Governors present and voting at a meeting of the Council of Governors. The following procedure is to be adopted:
- 12.1.1 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 in paragraph 11 above; and
- 12.1.2 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:
- 12.1.2.1 dismiss the complaint and take no further action;

- 12.1.2.2 arrange for a resolution to expel the Member complained of to be considered at the next meeting of the Council of Governors; or
 - 12.1.2.3 determine that the complaint should be investigated by the Standards Committee in accordance with the terms of reference and protocols of the Standards Committee. For the avoidance of doubt, not every complaint received in accordance with paragraph 12.1.1 above has to be investigated by the Standards Committee.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 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.
- 12.6 No person who has been expelled from membership pursuant to the provisions of paragraph 12.1 above is to be re-admitted as a Member except by a resolution of the Council of Governors carried by votes of two-thirds of the members of the Council of Governors present and voting at a general meeting of the Council of Governors.

13 Termination of membership

- 13.1 A Member shall cease to be a Member on:

- 13.1.1 death; or
- 13.1.2 resignation by notice in writing to the Secretary; or
- 13.1.3 ceasing to fulfil the requirements of paragraphs 7, 8 or 10 of this Constitution, as the case may be; or
- 13.1.4 being disqualified pursuant to paragraphs 11.3 to 11.5 above, or being expelled pursuant to paragraph 12 above; or
- 13.1.5 having moved away or otherwise become uncontactable by reasonable means.

14 Members' Meeting

- 14.1 The Trust shall hold an annual members' meeting of its Members (called the "Annual Members' Meeting"). The Annual Members Meeting shall be open to the members of the public.
- 14.2 Any Members' Meetings other than the Annual Members' Meeting shall be called a "Special Members' Meeting".
- 14.3 Special Members' Meetings shall be open to all Members of the Trust, members of the Council of Governors and, members of the Board of Directors, representatives of the Trust's Auditors, but not to members of the public. The Trust may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the Trust to attend.
- 14.4 All Members' Meetings are to be convened by order of the Board of Directors.
- 14.5 The Trust shall make provision for either the Annual Members' Meeting and/or the Special Members' Meeting to be held at different venues whether simultaneously or at different times.
- 14.6 The Board of Directors shall present to the Members at the Annual Members' Meeting:

- 14.6.1 a report on steps taken to secure that (taken as a whole) the actual membership or the Public Constituency and the Service Users' and Carers' Constituency is representative of those eligible for such membership;
 - 14.6.2 the progress of the membership plan;
 - 14.6.3 any proposed changes to the policy for the composition of the Council of Governors and of the Non-Executive Directors;
 - 14.6.4 the results of any election and appointments of Governors, and
 - 14.6.5 any other reports or documentation it considers necessary or otherwise required by the Regulator or the 2006 Act, including the Annual Accounts, any report of the Auditor on them and the Annual Report.
- 14.7 The Trust shall give notice of the Annual Members' Meeting or a Special Members' Meetings:
- 14.7.1 by notice in writing to all Members (as appropriate);
 - 14.7.2 by notice prominently displayed at the Trust's headquarters and at all of the Trust's Hospitals (as appropriate);
 - 14.7.3 by notice on the Trust's website at least 14 clear days before the date of the meeting; and
 - 14.7.4 to the Council of Governors, the Board of Directors, and to the Trust's Auditors stating whether the meeting is an Annual Members' Meeting or a Special Members' Meeting including the time, date, place of the meeting, and the business to be dealt with at the meeting.
- 14.8 The Chair or in his absence the Deputy Chair or in their absence the Reserve Chair shall preside at all Annual Members' Meetings and Special Members' Meetings of the

Trust. If none of the Chair, the Deputy Chair or the Reserve Chair is present, the Governors present shall elect one of their number to be Chair of either the Annual Members' Meeting or a Special Members' Meeting and if there is only one Governor present and willing to act that person shall be Chair. If no Governor is willing to act as Chair or if no Governor is present within fifteen minutes after the time appointed for holding either an Annual Members' Meeting or a Special Members' Meeting, the Members present and entitled to vote shall choose one of their number to be Chair.

15 Council of Governors – composition

- 15.1 The Trust shall have a Council of Governors which shall comprise both Elected Governors and Appointed Governors.
- 15.2 The composition of the Council of Governors is specified in Annex 4.
- 15.3 The members of the Council of Governors, other than the Appointed Governors, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency.
- 15.4 The number of Governors to be elected by each constituency or, where appropriate, by each class of each constituency is specified in Annex 4.

16 Council of Governors – election of Governors

- 16.1 Elections for the Elected Governors shall be conducted in accordance with the Model Rules for Elections.
- 16.2 The Model Rules for Elections are attached at Annex 5.
- 16.3 A variation of the Model Rules for Elections by the Department of Health shall not constitute a variation of the terms of this Constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules for Elections.
- 16.4 An election, if contested, shall be by secret ballot.

16.5 A person may not vote at an election or stand for election as an Elected Governor unless within the period specified in the Model Rules for Elections he made a declaration in the forms specified in paragraphs 16.6 and 16.7 below. It is an offence (other than in relation to the Staff Constituency) to knowingly or recklessly make such a declaration under paragraph 16.6 which is false in a material particular.

16.6 The specified form of declaration referred to at paragraph 16.5 above regarding the declaration to stand for election as an Elected Governor shall be as set out on the nomination paper referred to in the Model Rules for Elections at Annex 5 and shall state as follows:

“I declare that I am resident at the address detailed in Section 1 of this form. I declare that to the best of my knowledge I am eligible to stand for election to the Council of Governors for the seat named in Section 2 of this form. I declare that to the best of my knowledge I am not de-barred from standing for election by any of the provisions detailed at Section 3 of this form. I declare that I have stated details of any of my political membership and any financials I have in the Trust at Section 4 of this form. I understand that if any of these declarations are later found to be false I will if elected lose my seat on the Council of Governors and may also have my membership withdrawn. I endorse the principles of the National Health Service and in particular that healthcare should be available to everyone regardless of age, income or ethnicity and is based on need, not the ability to pay, as well as being free at the point of delivery”.

16.7 The specified form of declaration referred to at paragraph 16.6 above regarding the declaration to vote in elections for Public Governors and Service User's and Carers' Governors will be as set out in Rule 21 of the Model Rules for Elections.

Vacancies

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

16.8.1 where the vacancy arises amongst the Appointed Governors, the Trust will request that the relevant Partnership Governor's, or Local Authority Governor's appointing organisation appoint a "Replacement

Governor" within 30 days to hold office for the remainder of the term of office. Appointed Governors should be replaced in accordance with the processes agreed pursuant to paragraph 2 of Annex 4;

16.8.2 Subject to the provisions of paragraphs 16.9 to below, where the vacancy arises amongst the Elected Governors, the Council of Governors shall:

16.8.2.1 offer the candidate who was ranked next highest in the last election for the constituency, class or Staff Class (as the case may be) in which the vacancy has arisen the opportunity to assume the vacant office of Governor until the next annual election ("the Reserve Governor"), at which time the seat will fall vacant and be subject to election for any unexpired period of office;

16.8.2.2 if that candidate does not accept that invitation within 14 days of the date of the invitation then the vacant office shall be offered to that candidate who was next highest ranked in the last held election until the vacancy is filled ("the Reserve Governor"), but if no other candidate stood for election or there are no remaining candidates who stood for election, to that office, or no candidate accepts the Trust's invitation in accordance with the above provisions within such time as the Trust may in its absolute discretion decide, the Trust shall hold an election for the vacancy as soon as reasonably practicable thereafter.

16.9 Subject to the provisions of paragraph 16.10 below, where an Elected Governor ceases for whatever reason to hold office within the last twelve months of his term of office, the office shall remain vacant until the next scheduled election takes place.

16.10 Notwithstanding the provisions of paragraphs 16.8 and 16.9 above and paragraph 16.11 below, where the termination of a Governor's term of office causes the total number of Public Governors and Service Users' and Carers' Governors to be equal to or fewer than the other Governors then an election for that vacant office shall be held as soon as reasonably practicable.

16.11 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.

17 Council of Governors – tenure

17.1 An Elected Governor shall hold office for a period of up to 3 years.

17.2 An Elected Governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.

17.3 Elected Governors shall be eligible for re-election at the end of their term, but may not serve as a Governor for more than a total of 9 years.

17.4 An Appointed Governor shall hold office for a period of up to 3 years and shall be eligible for re-appointment at the end of that term, but may not serve as a Governor for more than a total of 9 years.

17.5 A Governor shall cease to hold office if:

17.5.1 in the case of an Elected Governor, they will 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 appointing organisation withdraws its sponsorship of them; or

17.5.2 their term of office is terminated in accordance with paragraph 18 below and/or they are disqualified from or is otherwise ineligible to hold office as a Governor; or

17.5.3 they resign by notice in writing to the Trust.

17.6 For the purposes of the preceding tenure provisions, a "year" means a period of 12 consecutive months commencing immediately after the conclusion of the annual meeting of the Council of Governors and ending at the conclusion of the next annual meeting of the Council of Governors.

18 Council of Governors – disqualification and removal

- 18.1 A person may not become or continue as a member of the Council of Governors if:
- 18.1.1 they have been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 18.1.2 they have made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it;
 - 18.1.3 they have within the preceding five years been convicted in the United Kingdom 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;
 - 18.1.4 they are under sixteen (16) years of age at the date they are nominated for election or appointment;
 - 18.1.5 in the case of an Elected Governor, they cease to be a member, of the constituency or class within a constituency which they represent;
 - 18.1.6 in the case of an Appointed Governor, the appointing organisation withdraws its sponsorship of them;
 - 18.1.7 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, by the coming to the end of a fixed term contract, or through ill health from any paid employment with a Health Service Body;
 - 18.1.8 they are a person whose tenure of office as a Chair or as a member or director of a Health Service Body has been terminated on the grounds that their appointment is not in the interests of public service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;

- 18.1.9 they are a person who by reference to information revealed by a Debarring Service 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;
- 18.1.10 they have failed to make, or have falsely made, any declaration as required by paragraph 16.6 of the Constitution;
- 18.1.11 they are subject to a direction made under section 142 (prohibition from teaching) of the Education Act 2002;
- 18.1.12 they are a person who has been subject of a disqualification order made under the Company Directors' Disqualification Act 1986;
- 18.1.13 they are a person who is the subject of a Sex Offenders Order and/or their name is included in the Sex Offenders Register;
- 18.1.14 their term of office is terminated pursuant to paragraph 18.5 below;
- 18.1.15 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 the Trust or some other NHS foundation trust;
- 18.1.16 they have received a written warning from the Trust for verbal and/or physical abuse towards Trust staff;
- 18.1.17 they are a person who is incapable by reason of mental disorder, illness or injury of managing and/or administering their property and/or their affairs;
- 18.1.18 they are a person who is an Immediate Family Member of a Director or Governor;

- 18.1.19 they are a person who has refused without reasonable cause to undertake any training which the Trust and/or the Council of Governors requires Governors to undertake;
 - 18.1.20 they are a person who has failed to sign and deliver to the Secretary a statement in the form required by the Trust confirming acceptance of the Governors' Code of Conduct;
 - 18.1.21 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 by the appropriate professional regulatory body for a continuous period of more than six months; or
 - 18.1.22 the relevant organisation which they represent ceases to exist.
 - 18.1.23 they are a member of a Staff Class and are currently subject to a live disciplinary sanction on their employment record and/or they have been subject to any disciplinary or court applied sanctions as a result of safeguarding investigations.
- 18.2 Where a person has been elected or appointed to be a Governor and they become disqualified or removed from office under paragraph 18.1 above, they shall notify the Secretary in writing of such disqualification and/or (as the case may be) removal as soon as practicable and in any event within 14 days of first becoming aware of those matters which rendered them to be disqualified or removed;
- 18.3 If it comes to the notice of the Secretary at the time a Governor taking office or later that the Governor is so disqualified, the Secretary shall immediately declare them disqualified and shall give them notice in writing to that effect as soon as practicable;
- 18.4 Upon the giving of notice under paragraphs 18.2 and/or 18.3 above, that person's tenure of office (if any) shall be terminated and they shall cease to act as a Governor and their name shall be removed from the register of Governors.
- 18.5 A Governor's term of office shall be terminated immediately:

- 18.5.1 by the Governor giving notice in writing to the Trust of their resignation from office at any time during that term of office;
- 18.5.2 by the Trust if any grounds exist under paragraph 18.1 above;
- 18.5.3 by the Council of Governors if they have failed to attend two successive meetings of the Council of Governors unless the Council of Governors are satisfied by a majority of three-quarters that;
 - 18.5.3.1 the absence was due to a reasonable cause; and
 - 18.5.3.2 they will be able to start attending meetings of the Council of Governors within such a period as the other Governors consider reasonable;
- 18.5.4 if a Governor is considered to have acted in a manner inconsistent with:
 - 18.5.4.1 the ability of the Trust to fulfil its principal purpose or of its other purposes under this Constitution or otherwise to discharge its duties and functions; or
 - 18.5.4.2 the ability of the Trust to work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods and services; or
 - 18.5.4.3 adversely affects public confidence in the goods and services provided by the Trust; or
 - 18.5.4.4 they otherwise bring the Trust into disrepute; or
 - 18.5.4.5 their actions are considered to be detrimental to the interest of the Trust; or
 - 18.5.4.6 it would not be in the best interests of the Trust for that person to continue in office as a Governor; or

- 18.5.4.7 they are considered by the Council of Governors to be 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
 - 18.5.4.8 they have failed or refused to undertake and/or satisfactorily complete any training which the Trust or the Council of Governors has required them to undertake in their capacity as a Governor; or
 - 18.5.4.9 their conduct as a Governor has failed to comply with the values and principles of the National Health Service or the Trust; or
 - 18.5.4.10 they have otherwise committed a breach of the Code of Conduct for Governors.
- 18.6 If the Governor in question is adjudged to have so acted in accordance with any of the grounds specified in paragraph 18.5 above, by a majority of not less than three-quarters of the members of the Council of Governors present and voting at a meeting of the Council of Governors, then the Governor shall vacate their office immediately.
- 18.7 Upon a Governor resigning under paragraph 18.5.1 above or upon the Council of Governors resolving to terminate a Governor's tenure of office in accordance with the provisions of paragraph 18.6 above, that Governor shall cease to be a Governor and their name shall be removed immediately from the register of Governors.
- 18.8 Any decision of the Council of Governors to terminate a Governor's tenure of office under paragraph 18.6 above may be referred by the Governor for dispute resolution in accordance with the procedure set out in paragraph 2 of Annex 8 within 14 days of the date upon which notice in writing of the Council of Governor's decision is given to the Governor.
- 18.9 The Standing Orders for Governors shall provide for the process to be adopted in cases relating to the termination of a Governor's tenure of office.

18.10 A Governor who resigns or whose tenure of office is terminated under this paragraph shall not be eligible to stand for re-election or be reappointed as Governor for a period of 3 years from the date of their resignation or removal from office, or the date upon which any appeal against their removal from office is decided, withdrawn or otherwise disposed of whichever is the later.

18.11 In the event that an Elected Governor's seat falls vacant before the end of the term of office, the provisions as set out at paragraph 16.8.2 shall apply.

19 Council of Governors – duties of governors

19.1 The general duties of the Council of Governors are:

19.1.1 to hold the Non-executive Directors individually and collectively to account for the performance of the Board of Directors, and

19.1.2 to represent the interests of the members of the Trust as a whole and the interest of the public.

19.2 The Trust must take steps to secure that the Council of Governors are equipped with the skills and knowledge they require in their capacity as such.

19.3 The roles and responsibilities of the Governors are as follows:

19.3.1 to ensure that the Trust operates in accordance with the Regulatory Framework and will also act in a trustee role for the welfare of the organisation as a vehicle for influencing change and developments;

19.3.2 to advise the Board of Directors when requested to do so by the Board of Directors regarding the Trust's future plans and priorities;

19.3.3 to monitor the performance of the Trust against its Forward Plan with a view to satisfying itself that the Board of Directors is fulfilling its responsibilities in this regard. This will be achieved by regular briefings on the performance of the Trust at its meetings, and being able to consider and comment on that performance;

- 19.3.4 to ensure continued success of the organisation through overseeing of effective management, partnership working and maintenance of NHS values and principles;
 - 19.3.5 to oversee the development of the Trust as an effective social enterprise through focus on the wider public interest and promoting social cohesion in ensuring that the Council of Governors reflects all the interests of the membership community;
 - 19.3.6 to share local responsibility for the success of the Trust, in particular by building and sustaining a wide consensus to the vision for the Trust and by Members representing the services to their respective communities and organisations and vice versa; and
 - 19.3.7 to instigate or be involved in review of a specific issue, or be involved in further development of a particular strategy through specific working groups.
- 19.4 Certain powers and decisions may only be exercised by the Council of Governors in formal session. These powers and decisions are set out in paragraph 19.5 below.
- 19.5 Subject to paragraph 19.4 above, the Governors also have the specific role and function of:
- 19.5.1 providing views to the Board of Directors on the strategic direction of the Trust and targets for the Trust's performance and in monitoring the Trust's performance in terms of achieving those strategic aims and targets which have been set;
 - 19.5.2 developing membership;
 - 19.5.3 representing the interests of the Members and forming a rounded view of the interests of the 'public at large';

- 19.5.4 holding the Board of Directors to account in relation to the Trust's performance in accordance with the Regulatory Framework.
- 19.6 Notwithstanding the provisions of paragraph 19.5 above, the Governors may exercise other functions at the request of the Board of Directors.
- 19.7 Notwithstanding the provisions of paragraphs 19.5 and 19.6 above, the Governors shall exercise their own skill and judgement in the conduct of Trust affairs and shall in their stewardship of Trust affairs bring an appropriate perspective of the constituency or organisation by which they were elected or appointed.

20 Council of Governors – meetings of Governors

- 20.1 The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 28.1 or, in his absence, the Deputy Chair or the Reserve Chair (as the case may be) (appointed in accordance with the provisions of paragraph 29 below), shall preside at meetings of the Council of Governors and the person chairing the meeting shall have a casting vote.
- 20.2 Meetings of the Council of Governors shall be open to members of the public unless the Council of Governors resolves that the public be excluded from the 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 and arising from the nature of the business to be transacted or the proceedings.
- 20.3 The Council of Governors shall hold not less than four general meetings in each Financial Year, including an annual meeting no later than 30 September in each year, when the Council of Governors is to receive and consider the Annual Accounts and any report of the Auditor on them and the Board of Directors is to present to the Council of Governors the Annual Report.
- 20.4 For the purposes of obtaining information about the Trust's performance of its functions or the Directors' performance of their duties (and for deciding whether to propose a vote on the Trust's or Directors' performance), the Council of Governors

may require one or more of the Directors to attend a meeting of the Council of Governors.

21 Council of Governors – standing orders

The standing orders for the practice and procedure of the Council of Governors ("Standing Orders for the Governors"), as may be varied from time to time, are at Annex 6.

22 Council of Governors – referral to the Panel

22.1 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:

22.1.1 to act in accordance with this Constitution, or

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

22.2 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.

23 Council of Governors – conflicts of interest of governors

23.1 If a Governor has a pecuniary, personal or family interest, 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.

23.2 The Standing Orders for the Governors 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.

24 Council of Governors – travel expenses and remuneration

The Trust may pay travelling and other costs and expenses to members of the Council of Governors at such rates as the Board of Directors decides from time to time. 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.

25 Board of Directors – composition

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

25.2 The Board of Directors shall comprise:

25.2.1 a non-executive Chair

25.2.2 up to a maximum of 7 other Non-Executive Directors; and

25.2.3 up to a maximum of 7 Executive Directors.

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

25.4 The Chief Executive shall be the Accounting Officer.

25.5 One of the Executive Directors shall be the Finance Director.

25.6 One of the Executive Directors shall be a registered medical practitioner (within the meaning of the Medical Act 1983) or a registered dentist (within the meaning of the Dentists Act 1984).

25.7 One of the Executive Directors shall be a registered nurse or a registered midwife within the meanings of the Nurse and Midwifery Order 2001 (SI 2002/253).

25.8 In the event that the number of Non-Executive Directors (including the Chair) is equal to the number of Executive Directors, the Chair (and in his absence, the Deputy

Chair), shall have a casting vote at meetings of the Board of Directors in accordance with the Standing Orders for Directors attached at Annex 7.

- 25.9 The validity of any act of the Trust is not affected by a vacancy among the Directors or by any defect in the appointment of any Director.
- 25.10 Subject to the provisions of paragraphs 25.3 to 25.7 above, the Board of Directors shall determine any change in the number of Directors, provided that any change in the number of Directors is within the range set out in paragraph 25.2 above.
- 25.11 The Board of Directors (in consultation with the Council of Governors) may appoint any independent Non-Executive Director as the Senior Independent Director, for such period not exceeding the remainder of his term as a Non-Executive Director as they may specify on appointing him.
- 25.12 Any Non-Executive Director so appointed may at any time resign from the office of Senior Independent Director by giving notice in writing to the Chair. The Board of Directors (in consultation with the Council of Governors) may thereupon appoint another independent Non-Executive Director as Senior Independent Director in accordance with the provisions of paragraph 25.11 above.
- 25.13 The Senior Independent Director shall perform the role set out in the NHS Foundation Trust Code of Governance.

26 Board of Directors – general duty

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, or

27.1.2 they are a member of the Service Users' and Carers' Constituency;
and

27.1.3 they are not otherwise disqualified by virtue of paragraph 31 below.

28 Board of Directors – appointment and removal of the Chair and other Non-Executive Directors

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

28.2 Removal of the Chair or another Non-Executive Director shall require a resolution to be submitted by one Governor which must be seconded by not less than ten Governors including at least two Elected Governors and two Appointed Governors, and requires the resolution in question to be approved by three-quarters of the members of the Council of Governors.

28.3 The Governor sponsoring the resolution mentioned in paragraph 28.2 above shall provide written reasons in support of the resolution to the Chair or Non-Executive Director in question, who shall be given the opportunity to respond to such reasons.

28.4 In making any decision to remove either the Chair or a Non-Executive Director under paragraph 28.2 above, the Council of Governors shall take into account the results of the annual appraisal concerning the Chair (or, as the case may be) the Non-Executive Director in question.

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 or of the Service Users' and Carers' 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 paragraph 28.11 below.
- 28.8 Subject to paragraph 28.9 below, the Nominations and Remuneration Committee shall consist of seven members which shall comprise:
- 28.8.1 2 Service Users' and Carers' Governors;
- 28.8.2 2 Public Governors;
- 28.8.3 2 Appointed Governors;
- 28.8.4 1 Staff Governor; and
- 28.8.5 The Chair of the Trust, except where his performance or remuneration is being considered at which point the Senior Independent Director should assume this position.
- 28.9 Not more than one Governor may represent a local authority either as a Local Authority Governor or Partnership Governor; and
- 28.10 A Public Governor or a Service User and Carer Governor will chair the Nominations and Remuneration Committee.
- 28.11 The functions of the Nominations and Remuneration Committee shall be as follows:

- 28.11.1 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;
- 28.11.2 where the Nominations and Remuneration Committee considers that either the Chair or the Non-Executive Director coming to the end of his 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;
- 28.11.3 Where:
- 28.11.3.1 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 28.11.2 above; or
- 28.11.3.2 the Chair or (as the case may be) the Non-Executive Director in question does not want to be reappointed; or
- 28.11.3.3 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 28.11.2 above,
- 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;

- 28.11.4 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
- 28.11.5 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.
- 28.12 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.
- 28.13 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 Board of Directors – appointment of Deputy Chair and the Reserve Chair

- 29.1 The Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-Executive Directors as the Deputy Chair for such period, not exceeding the remainder of their term as Non-Executive Director, as the Council of Governors may specify on appointing them.
- 29.2 Any Non-Executive Director so appointed may at any time resign from the office of Deputy Chair by giving notice in writing to the Council of Governors. The Council of Governors may thereupon appoint another Non-Executive Director as Deputy Chair in accordance with the provisions of paragraph 29.1 above.
- 29.3 If the Chair and the Deputy Chair are both absent from a meeting of the Council of Governors or are absent temporarily on the grounds of a declared conflict of interest,

the Council of Governors shall appoint another Non-Executive Director to preside (the "Reserve Chair") in accordance with the provisions of paragraph 14.8 above.

29.4 If the Chair or (as the case may be) the Deputy Chair is unable to discharge his functions as Chair or (as the case may be) as Deputy Chair of the Trust, another Non-Executive Director will be selected by the Chief Executive and a Non-Executive Director to be the "Acting Chair" of the Trust until such time as the Chair or (as the case may be) the Deputy Chair is able to discharge his functions as Chair or (as the case may be) as Deputy Chair, or a new Chair or (as the case may be) a new Deputy Chair is appointed by the Council of Governors in accordance with paragraph 28 and/or paragraph 29.1 above.

30 Board of Directors – appointment and removal of the Chief Executive and other Executive Directors

30.1 The Non-Executive Directors shall appoint or remove the Chief Executive.

30.2 The appointment of the Chief Executive shall require the approval of a majority of the members of the Council of Governors, present and voting at a meeting of the Council of Governors.

30.3 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

31 Board of Directors – disqualification

31.1 The following may not become or continue as a member of the Board of Directors:

31.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and who (in either case) has not been discharged;

31.1.2 a person who has made a composition or arrangement with, or granted a Trust deed for his creditors and who has not been discharged in respect of it;

- 31.1.3 a person who within the preceding five years has been convicted in the United Kingdom 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;
- 31.1.4 a person whose tenure of office as a Chair or as a member or director of a Health Service Body has been terminated on the grounds that their appointment is not in the interests of public service, for non attendance at meetings, or for non-disclosure of a pecuniary interest;
- 31.1.5 a person who has had their name removed from a list maintained under regulations pursuant to sections 91, 106, or 123 of the 2006 Act, or the equivalent lists maintained by Local Health Boards in Wales under the National Health Service (Wales) Act 2006, and they have not subsequently had their name included in such a list;
- 31.1.6 a person who has within the preceding two years been dismissed, otherwise than by reason of redundancy, by the coming to the end of a fixed term contract, or through ill health, from any paid employment with a Health Service Body;
- 31.1.7 a person who is a member of a local authority Health Overview and Scrutiny Committee;
- 31.1.8 a person who is a subject of a disqualification order made under the Company Directors' Disqualification Act 1986;
- 31.1.9 a person who has failed without reasonable cause to fulfil any training requirement established by the Board of Directors;
- 31.1.10 a person who has failed to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the Directors' Code of Conduct;
- 31.1.11 a person who is an Immediate Family Member of a Director or of a Governor;

- 31.1.12 a person who is the subject of a Sex Offenders Order and/or their name is included in the Sex Offenders Register;
- 31.1.13 a person who by reference to information revealed by a Debarring Service 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;
- 31.1.14 a person who is incapable by reason of mental disorder, illness or injury of managing and/or administering their property and/or their affairs;
- 31.1.15 a person who is included in any barred list under the Safeguarding Vulnerable Groups Act 2006 or who is included in an equivalent list under the laws of Scotland or Northern Ireland; or
- 31.1.16 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.

32 Board of Directors – meetings

- 32.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.
- 32.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors (including any part of the agenda for which members of the public may be excluded from a meeting for special reasons). As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

33 Board of Directors – Standing Orders

The standing orders for the practice and procedure of the Board of Directors ("Standing Orders for the Board of Directors"), as may be varied from time to time, are at Annex 7.

34 Board of Directors – conflicts of interest of Directors

34.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

34.1.1 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;

34.1.2 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;

34.2 The duty referred to in sub-paragraph 34.1.1 above is not infringed if:

34.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or

34.2.2 the matter has been authorised in accordance with this Constitution.

34.3 The duty referred to in sub-paragraph 34.1.2 above is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

34.4 In paragraph 34.1.2 above "third party" means a person other than:

34.4.1 the Trust; or

34.4.2 a person acting on its behalf.

34.5 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.

- 34.6 If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made.
- 34.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 34.8 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.
- 34.9 A Director need not declare an interest:
- 34.9.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - 34.9.2 if, or to the extent that, the Directors are already aware of it;
 - 34.9.3 if, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:
 - 34.9.3.1 by a meeting of the Board of Directors; or
 - 34.9.3.2 by a committee of the Directors appointed for the purpose under the Constitution.
- 34.10 The Standing Orders for the Board of Directors 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.

35 Board of Directors – remuneration and terms of office

- 35.1 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.

35.2 The Trust shall establish a committee of Non-Executive Directors to decide the remuneration and allowances and the other terms and conditions of office of the Chief Executive and other Executive Directors.

36 Registers

36.1 The Trust shall have:

36.1.1 a register of Members showing, in respect of each Member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs;

36.1.2 a register of members of the Council of Governors showing, in respect of each Governor, their name, their category of membership of the Council of Governors and an address through which they may be contacted which may be the Secretary;

36.1.3 a register of interests of the members of the Council of Governors showing, in respect of each Governor, whether he has declared any interest, and if so, the interest declared;

36.1.4 a register of Directors showing, in respect of each Director, their name, their category of membership of the Board of Directors and an address through which they may be contacted which may be the Secretary; and

36.1.5 a register of interests of the members of the Board of the Directors showing, in respect of each Director, whether he has declared any interests and, if so, the interests declared in accordance with the Constitution or in accordance with the SO of the Board of Directors.

36.2 The Secretary shall be responsible for compiling and maintaining the registers listed in paragraph 36.1 above and the registers may be kept in either paper or electric form. The process of admission to and removal from the registers shall be in accordance with the provisions of this Constitution, and as set out in paragraph 1 of Annex 8.

37 Registers – inspection and copies

- 37.1 The Trust shall make the registers specified in paragraph 36 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.
- 37.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of:
- 37.2.1 any member of the Service Users' and Carers' Constituency; or
 - 37.2.2 any other Member of the Trust, if the Member so requests.
- 37.3 So far as the registers are required to be made available:
- 37.3.1 they are to be available for inspection free of charge at all reasonable times; and
 - 37.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.
- 37.4 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.

38 Documents available for public inspection

- 38.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
- 38.1.1 a copy of the current Constitution;
 - 38.1.2 a copy of the latest Annual Accounts and of any report of the auditor on them; and
 - 38.1.3 a copy of the latest Annual Report;
 - 38.1.4 a copy of the latest Annual Quality Report

- 38.2 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:
- 38.2.1 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;
 - 38.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
 - 38.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act;
 - 38.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 38.2.5 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
 - 38.2.6 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 (Monitor's decision), 65KB (Secretary of State's response to Monitor's 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;
 - 38.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
 - 38.2.8 a copy of any final report published under section 65I (administrator's final report) of the 2006 Act;

38.2.9 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; and

38.2.10 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.

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

38.4 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.

39 Auditor

39.1 The Trust shall have an Auditor.

39.2 The Council of Governors shall appoint or remove the Auditor at a general meeting of the Council of Governors.

39.3 The Auditor is to carry out his duties in accordance with Schedule 10 to the 2006 Act and in accordance with any guidance given by the Regulator or the Secretary of State on standards, procedures and techniques to be adopted.

39.4 The Board of Directors may resolve that an "external auditor" be appointed to review and publish a report on any other aspect of the Trust's performance. Any such "external auditor" is to be appointed by the Board of Directors.

40 Audit Committee

The Board of Directors shall cause the Trust to establish a committee of Non-Executive Directors as an Audit Committee to perform such monitoring, reviewing and other functions as are appropriate.

41 Accounts

- 41.1 The Trust must keep proper accounts and proper records in relation to the accounts.
- 41.2 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.
- 41.3 The accounts are to be audited by the Auditor.
- 41.4 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.
- 41.5 The functions of the Trust with respect to the preparation of the Annual Accounts shall be delegated to the Accounting Officer.

42 Annual Report and Forward Plans and non-NHS Work

- 42.1 The Trust shall prepare an Annual Report and send it to the Regulator.
- 42.2 The Trust shall prepare the Forward Plan and send it to the Regulator.
- 42.3 The Forward Plan shall be prepared by the Directors.
- 42.4 In preparing the Forward Plan, the Directors shall have regard to the views of the Council of Governors.
- 42.5 Each Forward Plan must include information about:-
 - 42.5.1 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
 - 42.5.2 the income it expects to receive from so doing.
- 42.6 Where the Forward Plan contains a proposal that the Trust carry on any activity of a kind mentioned in paragraph 42.5.1 above the Council of Governors must:

42.6.1 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

42.6.2 notify the Directors of the Trust of its determination.

42.7 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 the health service in England; the proposal may only be implemented if 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 approve its implementation.

43 Presentation of the Annual Accounts and reports to the Governors and Members

43.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:

43.1.1 the Annual Accounts;

43.1.2 any report of the Auditor on them; and

43.1.3 the Annual Report;

43.1.4 The Annual Quality Report.

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

43.3 The Trust may combine a meeting of the Council of Governors convened for the purpose of paragraph 43.1 with the Annual Members Meeting.

44 Instruments

44.1 The Trust shall have a seal.

44.2 The seal shall not be affixed except under the authority of the Board of Directors as set out in the Standing Orders for the Board of Directors.

45 Amendment of the Constitution

45.1 The Trust may make amendments of its Constitution only if:

45.1.1 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 approve the amendments; and

45.1.2 more than half of the members of the Board of Directors of the Trust present and voting at a meeting of the Board of Directors approve the amendments.

45.2 Amendments made under paragraph 45.1 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 as amended.

45.3 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):

45.3.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment;

45.3.2 the Trust must give the members present at the Annual Members' Meeting an opportunity to vote on whether they approve the amendment; and

45.3.3 if more than half of the members present and voting at the Annual Members' Meeting 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.

45.4 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 as amended.

46 Mergers etc. and Significant Transactions

46.1 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.

46.2 The Trust may enter into a Significant Transaction only if more than half of the members of the Council of Governors of the Trust present and voting at the meeting of the Council of Governors approve entering into the transaction.

46.3 For the purposes of paragraph 46.2 above, a “Significant Transaction” means a transaction which meets the definition set out in Table 1 below:

Table 1: Significant Transaction

Ratio	Description	Significant
Assets	The gross assets* subject to the transaction, divided by the gross assets of the Trust	>25%
Income	The income attributable to the assets or the contract associated with the transaction, divided by the income of the Trust	>25%
Consideration to total NHS foundation trust capital	The gross capital** of the company or business being acquired/divested, divided by the total capital*** of the Trust following completion or the effects on the total capital of the Trust resulting from a transaction	>25%

- * 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 CONSTITUENCIES

1	2	3	4
Name of the Public Constituency	Area of the Public Constituency by Electoral Wards – (Those within the following council areas):	Minimum number of Members	Number of Governors
North Kesteven	North Kesteven District Council	20	1
South Kesteven	South Kesteven District Council	20	1
East Lindsey	East Lindsey District Council	20	1
West Lindsey	West Lindsey District Council	20	1
Borough of Boston	Boston Borough Council	20	1
South Holland	South Holland District Council	20	1
City of Lincoln	Lincoln City Council	20	1
Rest of England	Every English Electoral Ward with the exception of those in the other seven public constituencies listed above	20	1
Totals	Minimum Membership	160	
	Public Governors		8

ANNEX 2 - THE STAFF CONSTITUENCY

Table 2: Composition of the Staff Classes from 1 October 2017

1	2	3	4
Adult Inpatient Services	Those individuals defined in Para 1.1	20	2
Adult Community Services	Those individuals defined in Para 2.1	20	2
Older Adult Services	Those individuals defined in Para 3.1	20	2
Specialist Services	Those individuals defined in Para 4.1	20	2
Corporate Services	Those individuals defined in Para 5.1	20	1
Totals	Minimum Membership	100	
	Staff Governors		9

1 **Adult Inpatient Services Class**

1.1 The members of the Adult Inpatient Services Class are those individuals who are members of the Staff Constituency and who are identified on the Trust's payroll system as primarily employed or engaged in the provision of Adult Inpatient and Urgent Care Division at the date of their invitation to become a member in accordance with the provisions of paragraph 8 of this Constitution.

2 **Adult Community Services Class**

2.1 The members of the Adult Community Services Class are those individuals who are members of the Staff Constituency and who are identified on the Trust's payroll system as primarily employed or engaged in the provision of Adult Community Division at the date of their invitation to become a member in accordance with the provisions of paragraph 8 of this Constitution.

3 **Older Adults Services Class**

3.1 The members of the Older Adults Services Class are those individuals who are members of the Staff Constituency and who are identified on the Trust's payroll system as primarily employed or engaged in the provision of Older People and Frailty

Division at the date of their invitation to become a member in accordance with the provisions of paragraph 8 of this Constitution.

4 Specialist Services Class

4.1 The members of the Specialist Services Class are those individuals who are members of the Staff Constituency and who are identified on the Trust's payroll system as primarily employed or engaged in the provision of Specialist Services Division at the date of their invitation to become a member in accordance with the provisions of paragraph 8 of this Constitution.

5 Corporate Services Class

5.1 The members of the Corporate Services Class are those individuals who are members of the Staff Constituency and who are identified on the Trust's payroll system as primarily employed or engaged in the provision of Corporate Services at the date of their invitation to become a member in accordance with the provisions of paragraph 8 of this Constitution.

6 The minimum number of Members required for each Staff Class listed in paragraphs 1.1. to 5.1 above shall be twenty (20).

7 Where there is any uncertainty regarding which Staff Class a Member belongs to in light of the provisions of paragraphs 1 to 5 above, the Secretary shall, in their absolute discretion, allocate the Member of the Staff Constituency to the Staff Class that they consider is appropriate in light of the relevant information about that individual's role.

ANNEX 3 - The Service Users' and Carers' Constituency

Table 1: Service Users' Class and the Carers' Class effective from 1 October 2014

1	2	3	4
Description of classes within the Service Users' and Carers' Constituency	Description of individuals eligible to become Members	Minimum Number of Members	Number of Governors
"Service Users"	Those individuals defined in paragraph 2 below	20	7
"Young Peoples Carers"	Those individuals defined in paragraph 3 below	5	1
"Carers"	Those individuals defined in paragraph 4 below	20	3
Totals	Minimum Membership	45	
	Service Users' and Carers' Governors		11

1 General

Service Users and Carers are eligible to be members of the Service Users' and Carers' Constituency as provided for in paragraph 10 of this Constitution.

2 Service Users' Class

Service Users shall be eligible to be members of the "Service Users' Class".

3 Young Peoples Carers' Class

The members of the Young Peoples Carers' Class are those individuals who:

- 3.1 are a Carer of an individual who is a Service User before their eighteenth (18) birthday; or
- 3.2 are otherwise designated by the Trust from time to time as being eligible to be a member of this class.

4 Carers Class

Carers, other than those individuals who fall within the provisions of paragraphs 2 or 3 of this Annex 3, shall be eligible to be members of the "Carers' Class".

5 Allocation to Service User and Carer classes.

5.1 The minimum number of Members required for the classes listed in paragraphs above shall be as set out in Table 1.

5.2 Where there is any uncertainty regarding which service users' and carers' class a Member belongs to in light of the provisions of paragraphs 1 to 4 above, the Secretary shall, in their absolute discretion, allocate the Member of the Service Users' and Carers' Constituency to the service users' and carers' class that they consider is appropriate in light of the relevant information about that individual's role.

ANNEX 4 - COMPOSITION OF THE COUNCIL OF GOVERNORS

Part 1: Composition of the Council of Governors from 1 October 2016

1 Composition

1.1 Subject to the provisions of Part 2 of this Annex 4, from 1 October 2018 , the Council of Governors shall be composed of 36 Governors, comprised of:

1.1.1 **8 Public Governors:**

1.1.1.1 1 being elected from each of the following Public Constituencies:

1.1.1.1.1 North Kesteven;

1.1.1.1.2 South Kesteven;

1.1.1.1.3 East Lindsey;

1.1.1.1.4 West Lindsey;

1.1.1.1.5 Borough of Boston;

1.1.1.1.6 South Holland;

1.1.1.1.7 City of Lincoln; and

1.1.1.1.8 Rest of England.

1.1.2 **9 Staff Governors:**

Subject to paragraph 4 of Annex 2:

1.1.2.1 2 being elected from the Adult Inpatient Services Staff Class;

1.1.2.2 2 being elected from the Adult Community Services Staff Class;

1.1.2.3 2 being elected from the Older Adults Services Staff Class;

1.1.2.4 2 being elected from the Specialist Services Staff Class; and

1.1.2.5 1 being elected from the Corporate Services Staff Class.

1.1.3 **11 Service Users' and Carers' Governors:**

1.1.3.1 7 being elected from the " Service Users Class";

1.1.3.2 1 being elected from the "Young Peoples Carers' Class";

1.1.3.3 3 being elected from the "Carers' Class".

1.1.4 **2 Local Authority Governors; and**

1.1.5 **6 Partnership Governors.**

1.2 The aggregate number of Public Governors and Service Users' and Carers' Governors shall be more than half the total membership of the Council of Governors.

1.3 The organisations specified as Partnership Organisations that may appoint members of the Council of Governors from 1 October 2013 are:

1.3.1 University of Lincoln;

1.3.2 Lincolnshire Partnership NHS Foundation Trust Volunteers;

1.3.3 Shine Lincolnshire;

1.3.4 Healthwatch;

1.3.5 A Lincolnshire Integrated Care Board, or its successor body Representative;

1.3.6 A Lincolnshire Police Representative.

1.4 The Partnership Organisations listed in paragraph 1.3 above may be varied from time to time by the Trust.

2 Appointed Governors

2.1 Local Authority Governors:

2.1.1 Lincolnshire County Council or its successor organisation may appoint 2 (two) Local Authority Governors by notice in writing signed by the leader of the Council and delivered to the Secretary.

2.2 **Partnership Governors:**

Subject to the provisions of paragraph 4.3 below:

2.2.1 the University of Lincoln or its successor organisation(s) may appoint 1 (one) Partnership Governor by notice in writing signed by the vice chancellor or equivalent and delivered to the Secretary;

2.2.2 the Lincolnshire Partnership NHS Foundation Trust Volunteers may appoint 1 (one) Partnership Governor by notice in writing signed by the volunteer service manager or equivalent and delivered to the Secretary;

2.2.3 Shine Lincolnshire or its successor organisation(s) may appoint 1 (one) Partnership Governor by notice in writing signed by the chief executive or equivalent and delivered to the Secretary;

2.2.4 Lincolnshire Integrated Care Board, or its successor organisation(s) may appoint 1 (one) Partnership Governor by notice in writing signed by the chief executive or equivalent and delivered to the Secretary;

2.2.5 Healthwatch Lincolnshire or its successor organisation may appoint one partnership governor by notice in writing signed by the Chief Executive or equivalent and delivered to the Secretary;

2.2.6 Lincolnshire Police, or its successor organisation, may appoint 1 (one) Partnership Governor by notice in writing signed by the Chief Constable or equivalent and delivered to the Secretary.

2.3 Notwithstanding the provisions of paragraphs 2.2.1 to 2.2.4 above, the Chair may veto the appointment of a Partnership Governor by serving notice in writing to the relevant Partnership Organisation(s) where he believes that the appointment in question is unreasonable, irrational or otherwise inappropriate.

ANNEX 5 - THE MODEL RULES FOR ELECTIONS¹

Part 1 – Interpretation

1 Interpretation

Part 2 – Timetable for election

2 Timetable
3 Computation of time

Part 3 – Returning officer

4 Returning officer
5 Staff
6 Expenditure
7 Duty of co-operation

Part 4 – Stages Common to Contested and Uncontested Elections

8 Notice of election
9 Nomination of candidates
10 Candidate's consent and particulars
11 Declaration of interests
12 Declaration of eligibility
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Part I Interpretation

1. Interpretation

(1) In these rules, unless the context otherwise requires -

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

“election” means an election by 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; and

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

(2) Other expressions used in these rules and in Schedule 7 to the 2006 Act have the same meaning in these rules as in that Schedule.

Part 2— Timetable for election

2. Timetable

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 papers 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 5.00 p.m. on the final day of the election.

3. Computation of time

- (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.

- (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

- (1) Subject to rule 64, the returning officer for an election is to be appointed by the corporation.
- (2) Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

5. Staff

Subject to rule 64, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure

The corporation is to pay the returning officer:

- (a) any expenses incurred by that officer in the exercise of his or her functions under these rules,
- (b) such remuneration and other expenses as the corporation may determine.

7. Duty of co-operation

The corporation is to co-operate with the returning officer in the exercise of his or her functions under these rules.

Part 4 Stages Common to Contested and Uncontested Elections

8. Notice of election

The returning officer is to publish a notice of the election stating:

- (a) the Constituency for which the election is being held,

- (b) the number of Members of the Council of Governors to be elected from that Constituency,
- (c) the details of any nomination committee that has been established by the corporation,
- (d) the address and times at which nomination papers may be obtained;
- (e) the address for return of nomination papers 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, and
- (h) the date and time of the close of the poll in the event of a contest.

9. Nomination of candidates

- (1) Each candidate must nominate themselves on a single nomination paper.
- (2) The returning officer-
 - (a) is to supply any member of the corporation with a nomination paper, and
 - (b) is to prepare a nomination paper 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

- (1) The nomination paper must state the candidate's
 - (a) full name,
 - (b) contact address in full, and
 - (c) Constituency, of which the candidate is a Member.

11. Declaration of interests

The nomination paper 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

The nomination paper must include a declaration made by the candidate:

- (a) that he or she is 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 or Patients and Carers' Constituency, of the particulars of his or her qualification to vote as a Member of that Constituency, for which the election is being held.

13. Signature of candidate

The nomination paper must be signed and dated by the candidate, 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.

14. Decisions as to the validity of nomination —

- (1) Where a nomination paper 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 paper 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.
- (2) The returning officer is entitled to decide that a nomination paper 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 papers, 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, as required by rule 13.

- (3) The returning officer is to examine each nomination paper as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.
- (4) Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination paper, stating the reasons for their decision.
- (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 paper.

15. Publication of statement of candidates

- (1) The returning officer is to prepare and publish a statement showing the candidates who are standing for election.
- (2) The statement must show:
 - (a) the name, contact address, and Constituency of each candidate standing, and
 - (b) the declared interests of each candidate standing,

as given in their nomination paper.

- (3) The statement must list the candidates standing for election in alphabetical order by surname.
- (4) The returning officer must send a copy of the statement of candidates and copies of the nomination papers to the corporation as soon as is practicable after publishing the statement.

16. Inspection of statement of nominated candidates and nomination papers

- (1) The corporation is to make the statements of the candidates and the nomination papers supplied by the returning officer under rule 15(4) available for inspection by members of the public free of charge at all reasonable times.
- (2) If a person requests a copy or extract of the statements of candidates or their nomination papers, the corporation is to provide that person with the copy or extract free of charge.

17. Withdrawal of candidates

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

- (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.
- (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.

- (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 is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.

Part 5— Contested elections

19. Poll to be taken by ballot

- (1) The votes at the poll must be given by secret ballot.
- (2) The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.

20. The ballot paper

- (1) The ballot of each voter 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.
 - (2) Every ballot paper must specify:
 - (a) the name of the corporation,
 - (b) the Constituency for which the election is being held,
 - (c) the number of Members of the Council of Governors to be elected from 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,
 - (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.
 - (3) Each ballot paper must have a unique identifier.
 - (4) Each ballot paper must have features incorporated into it to prevent it from being reproduced.
- #### **21. The declaration of identity (Public and Patient and Carers' Constituencies)**
- (1) In respect of an election for a Public or Patients and Carers' Constituency a declaration of identity must be issued with each ballot paper.

- (2) The declaration of identity is to include a declaration:
 - (a) that the voter is the person to whom the ballot paper was addressed,
 - (b) that the voter has not marked or returned any other voting paper in the election, and
 - (c) for a Member of the Public or Patients and Carers' Constituency, of the particulars of that Member's qualification to vote as a member of the Constituency for which the election is being held.
- (3) The declaration of identity is to include space for:
 - (a) the name of the voter,
 - (b) the address of the voter,
 - (c) the voter's signature, and
 - (d) the date that the declaration was made by the voter.
- (4) The voter must be required to return the declaration of identity together with the ballot paper.
- (5) The declaration of identity must caution the voter that, if it is not returned with the ballot paper, or if it is returned without being correctly completed, the voter's ballot paper may be declared invalid.

Action to be taken before the poll

22. List of eligible voters

- (1) The corporation is to provide the returning officer with a list of the Members of the Constituency for which the election is being held who are eligible to vote by virtue of rule 26 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.
- (2) The list is to include, for each Member, a mailing address where his or her ballot paper is to be sent.

23. Notice of poll

The returning officer is to publish a notice of the poll stating:

- (a) the name of the corporation,
- (b) the Constituency for which the election is being held,
- (c) the number of Members of the Council of Governors to be elected from 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 address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

24. Issue of voting documents by returning officer

- (1) 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 documents to each member of the corporation named in the list of eligible voters:
 - (a) a ballot paper and ballot paper envelope,
 - (b) a declaration of identity (if required),
 - (c) information about each candidate standing for election, pursuant to rule 59 of these rules, and
 - (d) a covering envelope.
- (2) The documents are to be sent to the mailing address for each member, as specified in the list of eligible voters.

25. Ballot paper envelope and covering envelope

- (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.
- (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.
- (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 declaration of identity if required, and
 - (b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

26. Eligibility to vote

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.

27. Voting by persons who require assistance —

- (1) The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.
- (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 he or she considers necessary to enable that voter to vote.

28. Spoilt ballot papers

- (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 a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.
- (2) On receiving an application, the returning officer is to obtain the details of the unique identifier on the spoilt ballot paper, if he or she can obtain it.
- (3) The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she:
 - (a) is satisfied as to the voter’s identity, and
 - (b) has ensured that the declaration of identity, if required, has not been returned.
- (4) After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter in 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. Lost ballot papers

- (1) Where a voter has not received his or her ballot paper by the fourth day before the close of the poll, that voter may apply to the returning officer for a replacement ballot paper.
- (2) The returning officer may not issue a replacement ballot paper for a lost ballot paper unless he or she:
 - (a) is satisfied as to the voter’s identity,
 - (b) has no reason to doubt that the voter did not receive the original ballot paper, and
 - (c) has ensured that the declaration of identity if required has not been returned.

- (3) After issuing a replacement ballot paper for a lost ballot paper, the returning officer shall enter in a list (“the list of lost ballot papers”) —
 - (a) the name of the voter, and
 - (b) the details of the unique identifier of the replacement ballot paper.

30. Issue of replacement ballot paper

- (1) If a person applies for a replacement ballot paper under rule 28 or 29 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 a replacement ballot paper unless, in addition to the requirements imposed rule 28(3) or 29(2), he or she is 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.
- (2) After issuing a replacement ballot paper under this rule, the returning officer shall enter in a list (“the list of tendered ballot papers”) —
 - (a) the name of the voter, and
 - (b) the details of the unique identifier of the replacement ballot paper issued under this rule.

31. Declaration of identity for replacement ballot papers (Public and Patients and Carers' Constituencies)

- (1) In respect of an election for a Public or Patients and Carers' Constituency, a declaration of identity must be issued with each replacement ballot paper.
- (2) The declaration of identity is to include a declaration —
 - (a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and
 - (b) of the particulars of that member's qualification to vote as a Member of the Public or Patients and Carers' Constituency for which the election is being held.
- (3) The declaration of identity is to include space for:
 - (a) the name of the voter,
 - (b) the address of the voter,
 - (c) the voter's signature, and
 - (d) the date that the declaration was made by the voter.
- (4) The voter must be required to return the declaration of identity together with the ballot paper.
- (5) The declaration of identity must caution the voter that if it is not returned with the ballot paper, or if it is returned without being correctly completed, the replacement ballot paper may be declared invalid.

Procedure for receipt of envelopes

32. Receipt of voting documents

- (1) Where the returning officer receives a:
 - (a) covering envelope, or
 - (b) any other envelope containing a declaration of identity 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 33 and 34 are to apply.

- (2) The returning officer may open any ballot paper envelope for the purposes of rules 33 and 34, 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.
- (3) The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

33. Validity of ballot paper

- (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 a declaration of identity if required that has been correctly completed, signed, and dated.
- (2) Where the returning officer is satisfied that paragraph (1) has been fulfilled, he or she is to:
 - (a) put the declaration of identity if required in a separate packet, and
 - (b) put the ballot paper aside for counting after the close of the poll.
- (3) Where the returning officer is not satisfied that paragraph (1) has been fulfilled, he or she is to
 - (a) mark the ballot paper “disqualified”,
 - (b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it the ballot paper,
 - (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.

34. Declaration of identity but no ballot paper (Public and Service Users and Carers' constituencies)

Where the returning officer receives a declaration of identity if required but no ballot paper, the returning officer is to —

- (a) mark the declaration of identity “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 declaration of identity in a separate packet.

35. Sealing of packets

As soon as is possible after the close of the poll and after the completion of the procedure under rules 33 and 34, the returning officer is to seal the packets containing—

- (a) the disqualified documents, together with the list of disqualified documents inside it,
- (b) the declarations of identity if required,
- (c) the list of spoilt ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

Part 6 - Counting the votes

36. [Not Used]

37. Arrangements for counting of the votes

The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.

38. The count — (1) The returning officer is to —

- (a) count and record the number of ballot papers that have been returned, and
 - (b) count the votes according to the provisions in this Part of the rules.
- (2) The returning officer, while counting and recording the number of ballot papers 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.
- (3) The returning officer is to proceed continuously with counting the votes as far as is practicable.

39. Rejected ballot papers —

(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 votes are given for more candidates than the voter is entitled to vote,
- (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, subject to paragraphs (2) and (3) below, be rejected and not counted.

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

(3) A ballot paper on which a vote is marked —

- (a) elsewhere than in the proper place,
- (b) otherwise than by means of a clear mark,
- (c) by more than one mark,

is not to be rejected for such reason (either wholly or in respect of that vote) if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

(4) The returning officer is to —

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

(5) The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings —

- (a) does not bear proper features that have been incorporated into the ballot paper,
- (b) voting for more candidates than the voter is entitled to,
- (c) writing or mark by which voter could be identified, and
- (d) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of ballot papers rejected in part.

40. [Not used]

41. [Not used]

42. [Not used]

43. [Not used]

44. [Not used]

45. [Not used]

46. Equality of votes — Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Part 7— Final proceedings in contested and uncontested elections

47. Declaration of result for contested elections — (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to —

- (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the Council of Governors from the Constituency for which the election is being held to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected—
- (i) where the election is held under a proposed constitution pursuant to powers conferred on the Applicant Trust by section 33(4) Part 2, Chapter 5 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 whom he or she has declared elected.

(2) The returning officer is to make:-

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

48. Declaration of result for uncontested elections — 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

49. Sealing up of documents relating to the poll — (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,
 - (b) the ballot papers endorsed with “rejected in part”,
 - (c) the rejected ballot papers, and
 - (d) the statement of rejected ballot papers.
- (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 declarations of identity,
 - (c) the list of spoilt ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- (3) The returning officer must endorse on each packet a description
- (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 to which the election relates.

50. Delivery of documents — Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 49, the returning officer is to forward them to the chair of the corporation.

51. Forwarding of documents received after close of the poll — 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 ballot papers are made too late to enable new ballot papers 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.

52. Retention and public inspection of documents — (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 Regulator, cause them to be destroyed.

(2) With the exception of the documents listed in rule 53(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.

(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.

53. Application for inspection of certain documents relating to an election —

(1) The corporation may not allow the inspection of, or the opening of any sealed packet containing —

- (a) any rejected ballot papers, including ballot papers rejected in part,
- (b) any disqualified documents, or the list of disqualified documents,
- (c) any counted ballot papers,
- (d) any declarations of identity, or
- (e) the list of eligible voters,

by any person without the consent of the Regulator.

(2) A person may apply to the Regulator to inspect any of the documents listed in (1), and the Regulator may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part II.

(3) The Regulator'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.

(4) On an application to inspect any of the documents listed in paragraph (1), —

- (a) in giving its consent, the regulator, and
- (b) and making the documents available for inspection, the corporation,

must 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 his or her 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

54. Countermand or abandonment of poll on death of candidate — (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) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned within that Constituency and

(b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, computed in accordance with rule 3 of these rules, beginning with the day that the poll was countermanded or abandoned.

(2) Where a new election is ordered under paragraph (1), no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned but further candidates shall be invited for that Constituency.

(3) Where a poll is abandoned under paragraph (1)(a), paragraphs (4) to (7) are to apply.

(4) The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 33 and 34, and is to make up separate sealed packets in accordance with rule 35.

(5) The returning officer is to —

- (a) count and record the number of ballot papers that have been received, and
- (b) seal up the ballot papers into packets, along with the records of the number of ballot papers.

(6) The returning officer is to 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 to which the election relates.

(7) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (4) to (6), the returning officer is to deliver them to the Chair of the corporation, and rules 52 and 53 are to apply.

Part 10— Election expenses and publicity

Election expenses

55. Election expenses — 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 to the regulator under Part II of these rules.

56 Expenses and payments by candidates - 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.

57. Election expenses incurred by other persons — (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 his or her 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.

(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 58 and 59.

Publicity

58. Publicity about election by the corporation — (1) The corporation may —

- (a) compile and distribute such information about the candidates, and
- (b) organise and hold such meetings to enable the candidates to speak and respond to questions,

as it considers necessary.

(2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, 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.

(3) Where the corporation proposes to hold a meeting 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.

59. Information about candidates for inclusion with voting documents - (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.

- (2) The information must consist of—
 - (a) a statement submitted by the candidate of no more than 250 words, and
 - (b) a photograph of the candidate.

60. Meaning of “for the purposes of an election” - (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.

(2) The provision by any individual of his or her own services voluntarily, on his or her own time, and free of charge is not to be considered an expense for the purposes of this Part.

Part II — Questioning elections and the consequence of irregularities

61. Application to question an election — (1) An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to the regulator.

(2) An application may only be made once the outcome of the election has been declared by the returning officer.

(3) An application may only be made to the Regulator 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.

(4) The application must —

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

(5) The application must be presented in writing within 21 days of the declaration of the result of the election.

(6) If the Regulator requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

- a. The Regulator shall delegate the determination of an application to a person or persons to be nominated for the purpose of the Regulator.
- b. The determination by the person or persons nominated in accordance with Rule 61(6)(a) shall be binding on and shall be given effect by the corporation, the applicant and the members of the Constituency including all the candidates for the election to which the application relates.
- c. The Regulator may prescribe rules of procedure for the determination of an application including costs.

Part 12— Miscellaneous

62. Secrecy — (l) 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 a ballot paper or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the candidate(s) for whom any member has voted.

(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.

(3) The returning officer is to make such arrangements as he or she thinks fit to ensure that the individuals who are affected by this provision are aware of the duties it imposes.

63. Prohibition of disclosure of vote — 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 he or she has voted.

64. Disqualification — 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.

65. Delay in postal service through industrial action or unforeseen event — 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 and declarations of identity,

the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the Regulator.

ANNEX 6 - STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE COUNCIL OF GOVERNORS

LINCOLNSHIRE PARTNERSHIP NHS FOUNDATION TRUST

STANDING ORDERS FOR THE COUNCIL OF GOVERNORS

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1 INTRODUCTION

- 1.1 The Trust became a Public Benefit Corporation on 1 October 2007 following authorisation by Monitor pursuant to the 2006 Act.
- 1.2 The principal place of business of the Trust is: Trust Headquarters, St Georges, Long Leys Road, Lincoln, LN1 1FS.
- 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 MEETINGS OF THE COUNCIL OF GOVERNORS

2.1 Admission of the Public

- 2.1.1 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:
 - 2.1.1.1 any publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or
 - 2.1.1.2 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.

2.1.2 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.

2.2 Calling Meetings

2.2.1 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 4 meetings in any year including:

2.2.1.1 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

2.2.1.2 any other meetings required of the Governors in order to fulfil their functions in accordance with the Constitution.

2.2.2 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.

2.2.3 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.

2.2.4 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 2.16 (Quorum).

2.3 Notice of Meetings

2.3.1 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 his behalf, shall be delivered to, or sent by post to the usual place of residence of every Governor, so as to be available to him at least 14 days before the meeting, save in the case of emergencies.

2.3.2 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 displayed at the Trust's headquarters and shall be advertised on the Trust's website at least 14 days before the meeting, save in the case of emergencies.

2.3.3 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 posting.

2.3.4 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.

2.3.5 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.

- 2.3.6 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 2.3 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.

2.4 **Annual Meeting**

- 2.4.1 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 shall present to that meeting:

- 2.4.1.1 A report on the proceedings of its meetings held since the last annual meeting;

- 2.4.1.2 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;

- 2.4.1.3 A report on any change to the Governors which has taken place since the last annual meeting; and

- 2.4.1.4 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.

2.5 **Setting the Agenda**

2.5.1 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.

2.5.2 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.

2.6 **Petitions**

2.6.1 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.

2.7 **Chair of Meeting**

2.7.1 At any Council of Governors meeting, the Chair, if present, shall preside.

2.7.2 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.

2.7.3 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.

2.8 **Agenda**

- 2.8.1 Where a Governor has requested inclusion of a matter on the agenda in accordance with SO 2.5.2 above as a matter to be formally proposed for discussion and voting on at the meeting, the provisions of this SO 2.8 shall apply in respect of the proposition:
- 2.8.2 The mover of the proposition shall have a right of reply at the close of any discussion on the proposition or any amendment thereto.
- 2.8.3 When a proposition is under discussion or immediately prior to discussion it shall be open to a Governor to move:
- 2.8.3.1 an amendment to the proposition;
- 2.8.3.2 the adjournment of the discussion or the meeting;
- 2.8.3.3 that the meeting proceeds to the next business;
- 2.8.3.4 the appointment of an ad hoc committee to deal with a specific item of business;
- 2.8.3.5 that the motion be now put;
- 2.8.3.6 that the public be excluded from the meeting in relation to the discussion concerning the proposition under SO 2.1.1.
- 2.8.4 In the case of sub-paragraphs SO 2.8.3.3 and SO 2.8.3.5 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.
- 2.8.5 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.
- 2.8.6 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.

2.9 Report from the Board of Directors

2.9.1 Unless otherwise agreed in writing, at each meeting of the Council of Governors, the Board of Directors is required to report to the Council of Governors on the Trust's general progress forward and forward planning unless it is agreed in writing they will not do so.

2.10 Chair's Ruling

2.10.1 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.

2.11 Voting

2.11.1 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 he has made a declaration in the form specified within Schedule A of these Standing Orders, that he is a member of the constituency which elected him and is 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.

2.11.2 Subject to SO 2.11.4 below, every question at a meeting shall be determined by a majority of the votes of the Chair of the meeting and the Governors present and voting on the question.

2.11.3 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.

2.11.4 A resolution for the removal of the Chair or a Non-Executive Director shall be passed only in accordance with the provisions of paragraphs 28.2 to 28.5 of the Constitution.

- 2.11.5 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.
- 2.11.6 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.
- 2.11.7 If a Governor so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).
- 2.11.8 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.

2.12 **Special Provisions relating to Termination of Governor's Tenure:**

- 2.12.1 Where a person has been elected or appointed to be a Governor and he becomes disqualified from office under paragraph 17 or paragraph 18 of the Constitution, he 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.
- 2.12.2 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 shall dispute that they are disqualified, the Governor may refer the matter to the dispute resolution procedure set out in

paragraph 2.5 of Annex 8 within 28 days of the date upon which the notice was given to the Governor.

2.13 Minutes

2.13.1 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.

2.13.2 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.

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

2.14 Suspension of Standing Orders

2.14.1 Except where this would contravene any statutory provision or any direction made by Monitor, any one or more of the SOs may be suspended at any meeting, provided that at least two-thirds of the Governors are present, including one Public Governor, one Staff Governor and one Service Users' and Carers' Governor, and that a majority of those present vote in favour of suspension.

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

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

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

2.15 **Record of Attendance**

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

2.16 **Quorum**

2.16.1 No business shall be transacted at a meeting unless at least one third of the total number of Governors are present with a majority of those present being the aggregate of Public Governors and Service Users' and Carers' Governors.

2.16.2 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.

2.16.3 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 5, he 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 **LEAD GOVERNOR AND DEPUTY LEAD GOVERNOR**

3.1 The Governors shall elect a Lead Governor and a Deputy Lead Governor who must be a Governor. The Lead Governor and a Deputy Lead Governor so elected shall not hold office for more than 18 months.

3.2 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.

- 3.3 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.
- 3.4 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.
- 3.5 These appointments shall be made from those Governors who have been elected as Governors from the Public Constituency or the Service Users' and Carers' Constituency.
- 3.6 The Lead Governor and the Deputy Lead Governor so elected shall not hold office for more than 18 months but shall be eligible for re-appointment at that time.
- 3.7 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 Secretary to arrive by a stipulated date.
- 3.8 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.
- 3.9 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.
- 3.10 The Governor whose nomination receives the largest number of votes for each position shall be appointed.

- 3.11 In the event of an equality of votes for either position the Trust Chair and the Standards Committee shall meet and select one of the tied nominees to take up office.
- 3.12 If a Governor shall receive the largest number of votes for appointment as both Lead Governor and Deputy Lead Governor, that Governor shall be appointed as Lead Governor and the Governor who received the second largest number of votes for the position of Deputy Lead Governor shall be appointed as Deputy Lead Governor
- 3.13 The result of the ballot shall be announced at the meeting.

4 COMMITTEES

- 4.1 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.
- 4.2 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.
- 4.3 A committee appointed under SO 4.1 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.
- 4.4 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.
- 4.5 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.

- 4.6 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.
- 4.7 Any committee or sub-committee established under this SO 4 may call upon outside advisers to assist them with their tasks, provided that the financial and other implications of seeking outside advisors 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 2.4 of Annex 8.
- 4.8 The Council of Governors shall approve the appointments to each of the committees which it has formally constituted.
- 4.9 Where the Council of Governors is required to appoint persons to a committee to undertake statutory functions, and where such appointments are to operate independently of the Council of Governors, such appointments shall be made in accordance with applicable statute and regulations and with guidance issued by the Regulator .
- 4.10 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.
- 4.11 The Council of Governors may appoint members to serve on joint committees with the Board of Directors or committees of the Board of Directors.

- 4.12 No governors shall be a full member of more than two committees, save for extraordinary circumstances where the Board of Governors shall, at a general meeting, approve the membership on an exceptional basis.

5 DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

5.1 Declaration of Interests

- 5.1.1 The Regulatory Framework and the Constitution require each Governor to declare to the Secretary:
- 5.1.1.1 any actual or potential interest, direct or indirect, which is relevant and material to the business of the Trust, as described in SO 5.2.1; and
 - 5.1.1.2 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 5.2.2 and 5.2.3; and
 - 5.1.1.3 any actual or potential family interest, direct or indirect, of which the Governor is aware, as described in SO 5.2.5.
- 5.1.2 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 he becomes aware of the existence of that interest, and in a form prescribed by the Secretary from time to time.
- 5.1.3 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, he 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.
- 5.1.4 Subject to SO 5.2.4, if a Governor has declared a pecuniary interest (as described in SOs 5.2.2 and 5.2.3) 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.

5.1.5 This SO 5 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 he is also a Governor).

5.1.6 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.

5.2 Nature of Interests

5.2.1 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:

5.2.1.1 directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies); or

5.2.1.2 ownership, part-ownership or directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS; or

5.2.1.3 majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS; or

5.2.1.4 a position of authority in a charity or voluntary organisation in the field of health and social care; or

5.2.1.5 any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services; or

- 5.2.1.6 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; or
- 5.2.1.7 research/funding grants that may be received by an individual or their department; or
- 5.2.1.8 interests in pooled funds that are under separate management.
- 5.2.2 A Governor shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
 - 5.2.2.1 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
 - 5.2.2.2 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.
- 5.2.3 A Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
 - 5.2.3.1 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
 - 5.2.3.2 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 Governor in the consideration or discussion of or in voting on, any question with respect to that contract or matter; or
 - 5.2.3.3 of any travelling or other expenses or allowances payable to a Governor in accordance with the Constitution.

- 5.2.4 Where a Governor:
- 5.2.4.1 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
 - 5.2.4.2 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
 - 5.2.4.3 if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class;
- 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 to his duty to disclose his interest.
- 5.2.5 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.
 - 5.2.6 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.

6 STANDARDS OF BUSINESS CONDUCT

- 6.1 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.

7 APPOINTMENTS AND RECOMMENDATIONS

- 7.1 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 ability, experience or character for submission to the Trust in relation to any appointment.
- 7.2 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 7.3 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.
- 7.4 The Chair and every Governor shall disclose to the Trust Secretary any relationship between himself and a candidate of whose candidature that Governor or Officer is aware. It shall be the duty of the Trust Secretary to report to the Council of Governors any such disclosure made.
- 7.5 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.
- 7.6 Where the relationship to a member of the Council of Governors of the Trust is disclosed, SO 5 shall apply.

8 MISCELLANEOUS

- 8.1 The Secretary shall provide a copy of these Standing Orders to each Governor and endeavour to ensure that each Governor understands his responsibilities within these Standing Orders.

- 8.2 These Standing Orders including all documents having effect as if incorporated in them shall be reviewed annually by the Board of Directors and the Council of Governors.
- 8.3 Any written notice required by these SOs shall be deemed to have been given on the day the notice was sent to the recipient.
- 8.4 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.
- 8.5 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 Lincolnshire Partnership NHS Trust Foundation Trust

I hereby declare that I am at the date of this declaration a member of the Public/Staff/Service Users' and Carers' 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.

Schedule B

Prescribed Form of Declaration of Interests

Declaration to the Secretary of Lincolnshire Partnerships NHS Foundation Trust

Date [insert]

To the Secretary of Lincolnshire Partnerships NHS Foundation Trust

Dear [insert]

In fulfilment of the obligations imposed on me by paragraph 21 of the Constitution of the Foundation Trust and the provisions of Standing Order 5 of the Standing Orders for the Council of Governors generally, and in particular Standing Order 5.1.2, 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 7 - STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS

LINCOLNSHIRE PARTNERSHIP NHS FOUNDATION TRUST

STANDING ORDERS

FOR THE

BOARD OF DIRECTORS

- 1 INTRODUCTION**
- 2 THE BOARD OF DIRECTORS**
- 3 MEETINGS OF THE TRUST**
- 4 ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION**
- 5 COMMITTEES**
- 6 DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS**
- 7 STANDARDS OF BUSINESS CONDUCT**
- 8 CUSTODY OF SEAL AND SEALING OF DOCUMENTS**
- 9 SIGNATURE OF DOCUMENTS**
- 10 MISCELLANEOUS**

1 INTRODUCTION

Statutory Framework

- 1.1 The Trust became a Public Benefit Corporation on 1 October 2007 following authorisation by Monitor pursuant to the 2006 Act.
- 1.2 The principal place of business of the Trust is Trust Headquarters, St Georges, Long Leys Road, Lincoln, LN1 1FS.
- 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 33 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. The Trust also has a common law duty as a bailee for patients' property held by the Trust on behalf of patients.
- 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 NHS Foundation Trust Code of Governance.

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.

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 Press²

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” (Section 1(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).

² The Board of Directors is aware that the provisions of the Public Bodies (Admission to Meetings) Act 1960 (the 1960 Act) do not apply to NHS Foundation Trusts. Nevertheless, the Board of Directors have opted to adopt the wording used in the 1960 Act, as set out below.

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 sent 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 dispatched 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 a meeting for special reasons), shall be displayed at the Trust's Headquarters at least three days before the meeting.

3.5 **Setting the Agenda**

- 3.5.1 The following matters shall appear on every agenda for a meeting of the Trust and shall be addressed prior to any other business being conducted:

3.5.2 Finance Report;

3.5.3 Performance Report; and

3.5.4 Corporate Risk Register.

3.5.5 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

3.11.1.1 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**

3.11.2.1 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:

3.11.2.2 the reception of a report;

3.11.2.3 consideration of any item of business before the Board of Directors;

3.11.2.4 the accuracy of minutes;

3.11.2.5 that the Board of Directors proceed to next business;

3.11.2.6 that the Board of Directors adjourn; or

3.11.2.7 that the question be now put.

3.11.3 **Amendments to motions**

3.11.3.1 A motion for amendment shall not be discussed unless it has been proposed and seconded.

3.11.3.2 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.

3.11.3.3 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

3.11.4.1 Amendments

3.11.4.1.1 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.

3.11.4.2 Substantive/original motion

3.11.4.2.1 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

3.11.5.1 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

3.11.6.1 When a motion is under debate, no motion may be moved other than:

3.11.6.1.1 an amendment to the motion;

3.11.6.1.2 the adjournment of the discussion, or the meeting;

3.11.6.1.3 that the meeting proceeds to the next business;

3.11.6.1.4 that the question should be now put;

- 3.11.6.1.5 the appointment of an 'ad hoc' committee to deal with a specific item of business;
- 3.11.6.1.6 a motion under SO 3.1.2 resolving to exclude the public (including the press); and
- 3.11.6.1.7 that a member be not further heard.
- 3.11.6.2 In the cases of a motion under SO 3.11.6.1.3 or SO 3.11.6.1.4, 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.
- 3.11.6.3 If a motion under SO 3.11.6.1.3 or SO 3.11.6.1.4 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.
- 3.11.6.4 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 more than once or 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 he considers 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.
- 3.13.2 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.
- 3.13.3 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.
- 3.13.4 If a Director so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.13.5 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.13.6 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 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 in the Trust Secretary's office.

3.14.3 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 Monitor, 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 Committee shall review every decision to suspend SOs.

3.16 Record of Attendance

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

3.17 Quorum

3.17.1 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.

3.17.2 An Officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.

3.17.3 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).

3.18 Meetings: Electronic Communication

3.18.1 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.

- 3.18.2 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 he has the ability to communicate interactively and simultaneously with all other parties attending the meeting including all persons attending by way of electronic communication.
- 3.18.3 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.
- 3.18.4 Meetings held in accordance with this SO are subject to SO 3.17 (Quorum). For such a meeting to be valid, a quorum **MUST** be present and maintained throughout the meeting.
- 3.18.5 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 4.4 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 he 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 Finance Director or other Executive Director to provide information and advise the Board of Directors in accordance with any statutory requirements. Outside these statutory requirements the Finance Director 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:

- 5.1.7.1 Audit Committee;
- 5.1.7.2 Appointment and Terms of Service Committee;
- 5.1.7.3 The Sustainability Committee;
- 5.1.7.4 Quality Committee, and;
- 5.1.7.5 The People Committee.
- 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 In order to comply with the Regulatory Framework, if the Council of Governors request that a matter which relates to paragraphs 38 and 39 of the Constitution 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

The provisions of this paragraph 7 below are subject to the provisions of paragraph 34 of this Constitution.

7.1 The Regulatory Framework requires members of the Board of Directors to declare to the 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 7.9 below he 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 share holdings 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 he has 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 he is also a Director).

8 STANDARDS OF BUSINESS CONDUCT

8.1 Policy

- 8.1.1 Directors and Officers should comply with the NHS Foundation Trust Code of Governance, 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 are party, has been, or is proposed to be, entered into by the Trust he shall, at once, give notice in writing to the Chief Executive or Secretary of the fact that he is 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 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 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 Finance Director (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 Audit Committee at least quarterly. (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:
- 9.3.5 for documents under seal, 12 years; and
- 9.3.6 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

11.2.1 Standing Financial Instructions and the Scheme of Delegation shall have the effect as if incorporated into SOs.

11.3 Review of Standing Orders

11.3.1 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.

11.4 Corporate Documents

11.4.1 Corporate documents specific to the setting up of the Trust shall be held in a secure place by the Chief Executive.

ANNEX 8 - FURTHER PROVISIONS

1 Application for Membership

- 1.1 An individual may become a Member by application to the Trust in accordance with this Constitution and the provisions of paragraph 1.2 below, save in the case of those who are invited by the Trust to become a member of a Staff Class of the Staff Constituency in accordance with paragraph 8 of the Constitution.
- 1.2 Where an individual wishes to apply to become a Member of the Trust, the following procedure shall apply:
 - 1.2.1 the Trust shall upon request supply the individual with a form of application for membership in a form determined by the Trust;
 - 1.2.2 upon receipt of the form of application referred to in paragraph 1.2.1 above, duly completed and signed by the applicant (or in the Trust's discretion signed on behalf of the applicant) the Secretary shall as soon as is reasonable practicable and in any event within 28 working days of receipt of the duly completed form consider the same;
 - 1.2.3 unless the applicant is ineligible for membership of the Trust or is disqualified from membership, the Secretary shall cause his name to be entered forthwith on the Trust's register of Members and shall give notice in writing to the applicant of that fact;
 - 1.2.4 upon the applicant's name being entered on the Trust's register of Members the individual shall thereupon become a Member;
 - 1.2.5 the information to be included in the Trust's Register of Members shall include the following details relating to that member:
 - 1.2.5.1 full name and title;
 - 1.2.5.2 date of birth;
 - 1.2.5.3 full postal address;
 - 1.2.5.4 home telephone number (if any);

- 1.2.5.5 email address (if any);
- 1.2.5.6 constituency and class of which he is a member;
- 1.2.5.7 date upon which he became a member;
- 1.2.5.8 gender and ethnicity; and
- 1.2.5.9 affiliation to any health and social care group;

1.3 Where an individual is invited by the Trust to become a Member, the following procedure shall apply:

1.3.1 the Trust shall take all reasonable steps to satisfy itself that the individual is eligible to become a member of a Staff Class of the Staff Constituency relevant to him before inviting him to become a Member of the Trust and that it has all the information needed to complete the register of Members in accordance with paragraph 1.2.5 above;

1.3.2 the Trust having so satisfied itself, it shall thereupon invite that individual to become a Member pursuant to paragraph 8 of the Constitution and if necessary shall request the individual to provide such further information, if any, as it may need to complete the necessary entry in the register of Members;

1.3.3 unless the individual has within 28 days of the date upon which the Trust dispatches its invitation for them to become a Member, advise the Trust that they do not wish to become a Member, the Secretary shall thereupon enter that individual's name on the register of Members and they shall thereupon become a Member provided that the Trust has been provided with the information, if any, requested pursuant to paragraph 1.3.2 above to enable him to complete the relevant entry in the register of Members;

1.3.4 if the individual has failed to provide the information requested by the Trust within 28 days of being invited by the Trust to provide it in accordance with paragraph 1.3.2 above, the Trust shall give notice in writing to the applicant that the information has not been provided and that unless and until the information is provided that individual's name shall not be entered on the register of Members.

- 1.4 No individual who is ineligible or disqualified from membership shall be entered or remain on the register of Members.
- 1.5 For the avoidance of doubt, an individual shall become a Member on the date upon which their name is entered on the Trust's register of Members and shall cease to be a Member upon the date on which their name is removed from the register of Members as provided for in this Constitution.
- 1.6 The Secretary shall procure that the register of Members and all other registers to be maintained in accordance with this Constitution or in accordance with the 2006 Act are regularly reviewed and updated and that the register of Members in particular is reviewed and updated as appropriate and no less often than every 28 days.
- 1.7 Where in the reasonable opinion of the Trust a Member is no longer eligible or is disqualified from membership of the Trust it shall be entitled to remove the name of that individual from the register of Members and that individual shall thereupon cease to be a member provided always that this power shall not be exercised until the Trust has given not less than 14 days written notice to the Member addressed to them at their address given in the register of Members of its intention to remove their from the register and that Member has not within that period notified the Trust of their wish to continue as Member and provided proof satisfactorily to the Trust of their continued eligibility.

2 Governors and Directors: Communication and Conflict

2.1 Summary

This paragraph 2 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.

2.2 Informal Communications

- 2.2.1 Informal and frequent communication between the Governors and the Directors is an essential feature of a positive and constructive relationship designed to benefit the Trust and the services it provides.
- 2.2.2 the Chair shall use his reasonable endeavours to encourage effective informal methods of communication including:
 - 2.2.2.1 participation of the Board of Directors in the induction, orientation and training of Governors;
 - 2.2.2.2 development of special interest relationships between Non-Executive Directors and Governors;
 - 2.2.2.3 discussions between Governors and the Chair and/or the Chief Executive and/or Directors through the office of the Chief Executive or his nominated officer; and
 - 2.2.2.4 involvement in membership recruitment and briefings at public events organised by the Trust.

2.3 **Formal Communication**

- 2.3.1 Some aspects of formal communication are defined by the constitutional roles and responsibilities of the Council of Governors and the Board of Directors respectively.
- 2.3.2 Formal communications initiated by the Council of Governors and intended for the Board of Directors will be conducted as follows:
 - 2.3.2.1 specific requests by the Council of Governors will be made through the Chair to the Board of Directors;
 - 2.3.2.2 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 but if the Chair declines to raise any such

issue the said Governor may nonetheless still raise it provided two thirds of the Governors present approve his request to do so. The Chair shall then raise the matter with the Board of Directors and provide the response to the Council of Governors;

2.3.2.3 joint meetings will take place between the Council of Governors and the Board of Directors as and when appropriate as determined by the Board of Directors in its absolute discretion.

2.3.3 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.

2.3.4 Communications between the Council of Governors and the Board of Directors may occur with regard to, but shall not be limited to:

2.3.4.1 the Board of Directors proposals for the strategic direction of the Trust and the Annual Report and Forward Plan;

2.3.4.2 the Board of Directors' proposals for developments;

2.3.4.3 Trust performance;

2.3.4.4 involvement in service reviews and evaluation relating to the Trust's services; and

2.3.4.5 proposed changes, plans and developments for the Trust other than those that may be covered by paragraph 2.3.2.2 above.

2.3.5 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.

2.3.6 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:

- 2.3.6.1 attendance by the Board of Directors at a meeting of the Council of Governors; or
- 2.3.6.2 provision of formal reports or presentations by Executive Directors to a meeting of the Council of Governors; or
- 2.3.6.3 inclusion of appropriate minutes for information on the agenda of a meeting of the Council of Governors; or
- 2.3.6.4 reporting the views of the Council of Governors to the Board of Directors through the Chair, the Deputy Chair or the Senior Independent Director.

2.4 Resolving Conflict between the Council of Governors and the Board of Directors

Subject to paragraph 22 of this Constitution:

- 2.4.1 the Council of Governors and the Board of Directors are committed to developing and maintaining a constructive and positive relationship. The aim, at all times, is to resolve any potential or actual differences of opinion quickly, through discussion and negotiation;
- 2.4.2 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 procedure described in paragraphs 2.4.2.1 and 2.4.2.2 below. The aim is to resolve the matter at the first available opportunity and only to follow the dispute resolution procedure if initial action fails to achieve resolution:
 - 2.4.2.1 the Chair will call a joint meeting (“Resolution Meeting”) of equal numbers of Governors and Directors, to take place as soon as possible, but no later than twenty days following the date of the request by the Chair. The Resolution Meeting will be held in private. The aim

of the Resolution Meeting will be to achieve resolution of the conflict. The Chair will have the right to appoint, in their absolute discretion, an independent facilitator to assist the process. Every reasonable effort must be made to reach resolution;

2.4.2.2 if the Resolution Meeting fails to resolve the conflict, the dispute will be referred back to the Board of Directors who shall make the final decision.

2.5 **Resolving Disputes about the Entitlement to Membership of the Trust and Eligibility for Membership of the Council of Governors**

2.5.1 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.

2.5.2 The Chief Executive (or his nominated representative) shall:

2.5.2.1 review 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;

2.5.2.2 then either confirm the original decision or make some other decision as appropriate based on the evidence which they have considered; and

2.5.2.3 communicate their decision and the reasons for it in writing to the individual concerned as soon as reasonably practicable.

2.5.3 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.

2.6 Review of Process

2.6.1 The provisions set out in paragraph 2 above will be reviewed regularly in joint meetings of the Council of Governors and Board of Directors.

3 Indemnity

3.1 Members of the Council of Governors, the Board of Directors and the Secretary 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 functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

3.2 The Trust may purchase and maintain insurance against this liability for its own benefit and for the benefit of members of the Council of Governors, the Board of Directors and the Secretary.

3.3 The Trust may take out insurance either through the NHS Resolution or otherwise in respect of directors and officers liability, including liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

4 Notices

4.1 Save where a specific provision of the Constitution otherwise requires, any notice required by this Constitution to be given shall be given in writing or shall be given using electronic communications to an address for the time being notified for that purpose.

- 4.2 In this paragraph 4, "electronic communication" shall have the meaning set out in the Electronic Communications Act 2000 or any statutory modification or re-enactment thereof.
- 4.3 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice served pursuant to paragraph 4.1 above shall be deemed to have been received 48 hours after the envelope containing it was posted, or in the case of a notice contained in an electronic communication, 48 hours after it was sent.