

AUTHORISATION
of
Bridgewater Community Healthcare NHS Trust
Schedule

The Constitution (and Annexures)

**Bridgewater Community
Healthcare**

NHS Foundation Trust

Constitution

Bridgewater Community Healthcare NHS Foundation Trust

Constitution

TABLE OF CONTENTS

<i>Paragraph</i>	<i>Page</i>
1. Interpretation and definitions	8
2. Name	8
3. Principal purpose	8
4. Powers.....	9
5. Membership and constituencies	9
6. Application for membership	9
7. Public Constituencies	10
8. Staff Constituency.....	10
9. NOT USED	11
10. Restriction on membership	11
10A. Annual Members' Meeting	12
11. Council of Governors – composition	12
12. Council of Governors – election of Governors	12
13. Council of Governors - tenure.....	13
14. Council of Governors – disqualification and removal.....	14
14A. Council of Governors – duties of Governors	14
15. Council of Governors – meetings of Governors	15
16. Council of Governors – standing orders	15
16A. Council of Governors – referral to the Panel.....	15
17. Council of Governors - conflicts of interest of Governors.....	16
18. Council of Governors – travel expenses	16
19. Council of Governors – further provisions.....	16
20. Board of Directors – composition.....	16
20A. Board of Directors – general duty	17

21.	Board of Directors – qualification for appointment as a Non-Executive Director	17
22.	Board of Directors – appointment and removal of Chairman and other Non-Executive Directors	17
23.	Board of Directors – appointment of initial Chairman and initial other Non-Executive Directors	18
24.	Board of Directors – appointment of deputy Chairman	18
25.	Board of Directors - appointment and removal of the Chief Executive and other Executive Directors	19
26.	Board of Directors – appointment and removal of initial Chief Executive	19
27.	Board of Directors – disqualification	19
27A.	Board of Directors - meetings	20
28.	Board of Directors – standing orders	20
29.	Board of Directors - conflicts of interest of Directors	20
30.	Board of Directors – remuneration and terms of office	22
31.	Registers	22
32.	NOT USED	22
33.	Registers – inspection and copies	23
34.	Documents available for public inspection	23
35.	Auditor	25
36.	Audit committee	25
37.	Accounts	25
38.	Annual report, forward plans and non-NHS work.....	26
39.	Presentation of the annual accounts and reports to the governors and members.....	27
40.	Instruments	27
41.	Amendment of the Constitution.....	27
42.	Mergers etc. and significant transactions.....	28
	ANNEX 1 – THE PUBLIC CONSTITUENCIES	30
	ANNEX 2 – THE STAFF CONSTITUENCY	31
	ANNEX 3 – NOT USED	32
	ANNEX 4 – COMPOSITION OF COUNCIL OF GOVERNORS	33
	ANNEX 5 – BRIDGEWATER COMMUNITY HEALTHCARE NHS FOUNDATION TRUST (COUNCIL OF GOVERNORS) MODEL ELECTION RULES	35
	ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS.....	77

ANNEX 7 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE COUNCIL OF GOVERNORS	81
ANNEX 8 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS.....	104
ANNEX 9 – FURTHER PROVISIONS	132
ANNEX 10 – ANNUAL MEMBERS’ MEETINGS.....	134

1. Interpretation and definitions

Unless otherwise stated, 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.

Words importing the masculine gender only shall include the feminine gender; words importing the singular shall import the plural and vice-versa.

the 2006 Act is the National Health Service Act 2006.

the 2012 Act is the Health and Social Care Act 2012.

Annual Members Meeting is defined in paragraph 10A of the Constitution.

Constitution means this constitution and all annexes to it.

Monitor is the body corporate known as Monitor, as provided by Section 61 of the 2012 Act.

the **Accounting Officer** is the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

the **Trust Secretary** is the person appointed from time to time to be the Trust's Company Secretary.

2. Name

The name of the foundation trust is Bridgewater Community Healthcare NHS Foundation Trust (the Trust).

3. Principal purpose

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

3.2 The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and

services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

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

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

3.3.2 the promotion and protection of public health.

3.4 The Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4. Powers

4.1 The powers of the Trust are set out in the 2006 Act.

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

4.3 Any of these powers may be delegated to a Committee of Directors or to an Executive Director.

5. Membership and constituencies

The Trust shall have members, each of whom shall be a member of one of the following constituencies:

5.1 a public constituency; or

5.2 a staff constituency.

6. Application for membership

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

7. Public Constituencies

- 7.1 An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a member of the Trust.
- 7.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as a Public Constituency.
- 7.3 The minimum number of members in each Public Constituency is specified in Annex 1.

8. Staff Constituency

- 8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:
 - 8.1.1 he is 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 he has been continuously employed by the Trust under a contract of employment for at least 12 months.
- 8.2 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as members of the Staff Constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.
- 8.3 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

- 8.4** The Staff Constituency shall be divided into six 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 class within the Staff Constituency.
- 8.5** The minimum number of members in each class of the Staff Constituency is specified in Annex 2.

Automatic membership by default – staff

- 8.6** An individual who is:
- 8.6.1** eligible to become a member of the Staff Constituency; and
 - 8.6.2** invited by the Trust to become a member of the Staff Constituency and a member of the appropriate class within the Staff Constituency;
- shall become a member of the Trust as a member of the Staff Constituency and appropriate class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

9. NOT USED

10. Restriction on membership

- 10.1** 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.
- 10.2** 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.
- 10.3** An individual must be at least 14 years old to become a member of the Trust.

10.4 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Trust are set out in Annex 9 – Further Provisions.

10A. Annual Members’ Meeting

10A.1 The Trust shall hold an annual meeting of its members (‘Annual Members’ Meeting’). The Annual Members’ Meeting shall be open to members of the public.

10A.2 Further provisions about the Annual Members’ Meeting are set out in Annex 10 – Annual Members’ Meeting.

11. Council of Governors – composition

11.1 The Trust is to have a Council of Governors, which shall comprise both elected and appointed Governors.

11.2 The composition of the Council of Governors is specified in Annex 4.

11.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of Governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 4.

12. Council of Governors – election of Governors

- 12.1** Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules on the basis of single transferable vote (STV) polling and the Model Election Rules shall be construed accordingly.
- 12.2** The Model Election Rules as published from time to time by the Department of Health form part of this Constitution. The Model Election Rules current at the date of the Trust's Authorisation are attached at Annex 5.
- 12.3** A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 41 of this Constitution (amendment of the Constitution).
- 12.4** An election, if contested, shall be by secret ballot.

13. Council of Governors - tenure

- 13.1** An elected Governor may hold office for a period of up to 3 years.
- 13.2** 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.
- 13.3** An elected Governor shall be eligible for re-election at the end of his term but may not hold office for more than 6 years in aggregate unless:
- 13.3.1** there is a break from office of at least one calendar year within any aggregate period of 6 years of office; or
- 13.3.2** at least one calendar year has elapsed between the end of the sixth year and the date when he or she is nominated for election for a further term of office.
- 13.4** An appointed Governor may hold office for a period of up to 6 years.
- 13.5** An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him.

13.6 An appointed Governor shall be eligible for re-appointment at the end of his term.

14. Council of Governors – disqualification and removal

14.1 The following may not become or continue as a member of the Council of Governors:

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

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

14.1.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

14.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.

14.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 6.

14.4 Further provisions as to the circumstances in which an individual may be removed as a member of the Council of Governors are set out in Annex 6.

14A. Council of Governors – duties of Governors

14A.1 The general duties of the Council of Governors are:

14A.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors; and

14A.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

14A.2 The Trust must take steps to secure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

15. Council of Governors – meetings of Governors

15.1 The Chairman of the Trust (i.e. the Chairman of the Board of Directors, appointed in accordance with the provisions of paragraph 22.1 or paragraph 23.1 below) or, in his absence the Deputy Chairman (appointed in accordance with the provisions of paragraph 24 below), shall preside at meetings of the Council of Governors.

15.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

15.3 For the purposes of obtaining information about the Trust's performance of its functions or the Directors' performance of their duties (and 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.

16. Council of Governors – standing orders

The standing orders for the practice and procedure of the Council of Governors are attached at Annex 7.

16A. Council of Governors – referral to the Panel

16A.1 In this paragraph, the Panel means a panel of persons appointed by Monitor to which a Governor of an NHS foundation Trust may refer a question as to whether the Trust has failed or is failing:

16A.1.1 to act in accordance with its Constitution; or

16A.1.2 to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

16A.2 A Governor may refer a question to the Panel only if more than half of the members of the Council of Governors voting approve the referral.

17. Council of Governors - conflicts of interest of Governors

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 he becomes aware of it. The Standing Orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

18. Council of Governors – travel expenses

The Trust may pay travelling and other expenses to members of the Council of Governors at rates determined by the Trust.

19. Council of Governors – further provisions

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

20. Board of Directors – composition

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

20.2 The Board of Directors is to comprise:

20.2.1 a non-executive Chairman;

20.2.2 seven other Non-Executive Directors; and

20.2.3 five Executive Directors.

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

20.4 The Chief Executive shall be the Accounting Officer.

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

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

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

20A. 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.

21. Board of Directors – qualification for appointment as a Non-Executive Director

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

21.1 he is a member of a Public Constituency; and

21.2 NOT USED;

21.3 NOT USED;

21.4 he is not disqualified by virtue of paragraph 27 below.

22. Board of Directors – appointment and removal of Chairman and other Non-Executive Directors

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

22.2 Removal of the Chairman or another Non-Executive Director shall require the approval of three-quarters of the members of the Council of Governors.

22.3 The initial Chairman and the initial Non-Executive Directors are to be appointed in accordance with paragraph 23 below.

23. Board of Directors – appointment of initial Chairman and initial other Non-Executive Directors

23.1 The Council of Governors shall appoint the Chairman of the applicant NHS Trust as the initial Chairman of the Trust, if he wishes to be appointed.

23.2 The power of the Council of Governors to appoint the other Non-Executive Directors of the Trust is to be exercised, so far as possible, by appointing as the initial Non-Executive Directors of the Trust any of the Non-Executive Directors of the applicant NHS Trust (other than the Chairman) who wish to be appointed.

23.3 The criteria for qualification for appointment as a Non-Executive Director set out in paragraph 21 above (other than disqualification by virtue of paragraph 27 below) do not apply to the appointment of the initial Chairman and the initial other Non-Executive Directors in accordance with the procedures set out in this paragraph.

23.4 An individual appointed as the initial Chairman or as an initial Non-Executive Director in accordance with the provisions of this paragraph shall be appointed for the unexpired period of his term of office as Chairman or (as the case may be) Non-Executive Director of the applicant NHS Trust; but if, on appointment, that period is less than 12 months, he shall be appointed for 12 months.

24. Board of Directors – appointment of deputy Chairman

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-Executive Directors as a deputy Chairman.

25. Board of Directors - appointment and removal of the Chief Executive and other Executive Directors

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

25.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.

25.3 The initial Chief Executive is to be appointed in accordance with paragraph 26 below.

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

26. Board of Directors – appointment and removal of initial Chief Executive

26.1 The Non-Executive Directors shall appoint the chief officer of the applicant NHS Trust as the initial Chief Executive of the Trust, if he wishes to be appointed.

26.2 The appointment of the chief officer of the applicant NHS Trust as the initial Chief Executive of the Trust shall not require the approval of the Council of Governors.

27. Board of Directors – disqualification

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

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

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

27.3 a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

27A. Board of Directors - meetings

27A.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.

27A.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. 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.

28. Board of Directors – standing orders

The standing orders for the practice and procedure of the Board of Directors are attached at Annex 8.

29. Board of Directors - conflicts of interest of Directors

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

29.1.1 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;

29.1.2 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.

29.2 The duty referred to in subparagraph 29.1.1 is not infringed if:

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

29.2.2 the matter has been authorized in accordance with this Constitution.

29.3 The duty referred to in sub-paragraph 29.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

29.4 In subparagraph 29.1.2, “third party” means a person other than:

29.4.1 the Trust; or

29.4.2 a person acting on its behalf.

29.5 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.

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

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

29.8 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.

29.9 A Director need not declare an interest:

29.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

29.9.2 If, or to the extent that, the Directors are already aware of it;

29.9.3 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:

29.9.3.1 by a meeting of the Board of Directors; or

29.9.3.2 by a committee of the Directors appointed for the purpose under the Constitution.

30. Board of Directors – remuneration and terms of office

30.1 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 Chairman and the other Non-Executive Directors.

30.2 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.

31. Registers

The Trust shall have:

31.1 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;

31.2 a register of members of the Council of Governors;

31.3 a register of interests of Governors;

31.4 a register of Directors; and

31.5 a register of interests of the Directors.

32. NOT USED.

33. Registers – inspection and copies

33.1 The Trust shall make the registers specified in paragraph 31 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

33.2 NOT USED.

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

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

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

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

33.5 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.

34. Documents available for public inspection

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

34.1.1 a copy of the current Constitution;

34.1.2 a copy of the latest annual accounts and of any report of the auditor on them; and

34.1.3 a copy of the latest annual report.

34.2 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:

- 34.2.1** 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;
- 34.2.2** a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
- 34.2.3** a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act;
- 34.2.4** a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
- 34.2.5** a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
- 34.2.6** 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;
- 34.2.7** a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
- 34.2.8** a copy of any final report published under section 65I (administrator's final report) of the 2006 Act;
- 34.2.9** 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; or

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

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

34.4 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.

35. Auditor

35.1 The Trust shall have an auditor.

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

36. Audit committee

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

37. Accounts

37.1 The Trust shall keep proper accounts and proper records in relation to the accounts.

37.2 Monitor may with the approval of the Secretary of State give directions to the Trust as to the form and content of its accounts.

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

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

37.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

38. Annual report, forward plans and non-NHS work

38.1 The Trust shall prepare an Annual Report and send it to Monitor.

38.2 The Trust shall give information as to its forward planning in respect of each financial year to Monitor.

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

38.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.

38.5 Each forward plan must include information about:

38.5.1 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

38.5.2 the income it expects to receive from doing so.

38.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 38.5.1 the Council of Governors must:

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

38.6.2 notify the Directors of the Trust of its determination.

38.7 A Trust which 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

may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

39. Presentation of the annual accounts and reports to the governors and members

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

39.1.1 the annual accounts;

39.1.2 any report of the auditor on them; and

39.1.3 the annual report.

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

39.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of paragraph 39.1 with the Annual Members' Meeting.

40 Instruments

40.1 The Trust shall have a seal.

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

41 Amendment of the Constitution

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

41.1.1 more than half of the members of the Council of Governors of the Trust voting approve the amendments; and

41.1.2 more than half of the members of the Board of Directors of the Trust voting approve the amendments.

41.2 Amendments made under paragraph 41.1 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.

41.3 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):

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

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

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

41.5 Amendments by the Trust of its Constitution are to be notified to Monitor. For the avoidance of doubt, Monitor'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.

42 Mergers etc. and significant transactions

- 42.1** 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.
- 42.2** This constitution does not contain any descriptions of **the term 'significant transaction'** for the purposes of section 51A of the 2006 Act (**Significant Transactions**).

ANNEX 1 – THE PUBLIC CONSTITUENCIES

Paragraph 7

<i>PUBLIC CONSTITUENCIES OF THE FOUNDATION TRUST</i>			
	Constituency	Area	Minimum number of members
1	Ashton, Leigh and Wigan	the electoral area covered by Wigan Metropolitan Borough Council	20
2	Halton	the electoral area covered by Halton Borough Council	20
3	St Helens	the electoral area covered by St Helens Metropolitan Borough Council	20
4	Warrington	the electoral area covered by Warrington Borough Council	20
5	Community Dental	the electoral area covered by Bolton Metropolitan Borough Council, Stockport Metropolitan Borough Council, Tameside Metropolitan Borough Council, Trafford Metropolitan Borough Council, High Peak Borough Council and Cheshire West and Chester Council	20
6	Rest of England	all electoral areas in England except those stated above.	10

ANNEX 2 – THE STAFF CONSTITUENCY

Paragraph 8

Classes of the Staff Constituency	Minimum number of members
Registered nurses and midwives	20
Allied health professionals / other registered healthcare professionals	20
Clinical support staff, including Assistant Practitioners / Healthcare Assistants and trainee clinical staff	20
Registered medical practitioners	20
Registered dentists	20
Non-clinical support staff including managerial and administrative staff	20

ANNEX 3 – NOT USED

ANNEX 4 – COMPOSITION OF COUNCIL OF GOVERNORS

Paragraph 11

1. The composition of the Council of Governors shall be as follows:

Appointed Governors	
Partnership organisation	Number of Appointed Governors
Wigan Council	1
Halton Borough Council	1
St Helens Metropolitan Borough Council	1
Warrington Borough Council	1
Wigan & Leigh Council for Voluntary Service	1
University of Central Lancashire	1
Total	6

Staff Governors	
Class	Number of Staff Governors
Registered nurses and midwives	3
Allied health professionals / other registered healthcare professionals	2
Clinical support staff, including Assistant Practitioners / Healthcare Assistants and trainee clinical staff	1
Registered medical practitioners	1
Registered dentists	1

Non-clinical support staff including managerial and administrative staff	1
Total	9

Public Governors	
Constituency	<i>Number of Public Governors</i>
Ashton, Leigh and Wigan	5
Halton	3
St Helens	4
Warrington	4
Community Dental	1
Rest of England	1
Total	18

2. The aggregate number of Public Governors is to be more than half of the total membership of the Council of Governors.
3. Those partnership organisations that are not local authorities may appoint Governors to the Council of Governors provided always that at the time of appointment the aggregate number of staff Governors and appointed Governors does not equal or exceed the number of Public Governors.
4. The partnership organisations may be varied from time to time by the Trust, but for the avoidance of doubt such variation shall constitute an amendment to this Constitution and accordingly the provisions of Clause 41 of the Constitution shall apply.

**ANNEX 5 – BRIDGEWATER COMMUNITY HEALTHCARE NHS
FOUNDATION TRUST (COUNCIL OF GOVERNORS)¹² MODEL ELECTION**

RULES

(Paragraph 12.2)

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

¹ References in this Annex 5 to "Board of Governors" shall bear the same meaning as "Council of Governors" in the Constitution

² All references in this Annex 5 to "Corporation" shall bear the same meaning as "the Trust" in the Constitution.

13. Signature of candidate
14. Decisions as to validity of nomination papers
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination papers
17. Withdrawal of candidates
18. Method of election

Part 5 – Contested elections

19. Poll to be taken by ballot
20. The ballot paper
21. The declaration of identity

Action to be taken before the poll

22. List of eligible voters
23. Notice of poll
24. Issue of voting documents
25. Ballot paper envelope and covering envelope

The poll

26. Eligibility to vote
27. Voting by persons who require assistance
28. Spoilt ballot papers
29. Lost ballot papers
30. Issue of replacement ballot paper
31. Declaration of identity for replacement ballot papers

Procedure for receipt of envelopes

32. Receipt of voting documents
33. Validity of ballot paper

- 34. Declaration of identity but no ballot paper
- 35. Sealing of packets

Part 6 - Counting the votes

- stv36. Interpretation of Part 6
- 37. Arrangements for counting of the votes
- 38. The count
- stv39. Rejected ballot papers
- fpp39. Rejected ballot papers
- stv40. First stage
- stv41. The quota
- stv42. Transfer of votes
- stv43. Supplementary provisions on transfer
- stv44. Exclusion of candidates
- stv45. Filling of last vacancies
- stv46. Order of election of candidates
- fpp46. Equality of votes

Part 7 – Final proceedings in contested and uncontested elections

- fpp47. Declaration of result for contested elections
- stv47. Declaration of result for contested elections
- 48. Declaration of result for uncontested elections

Part 8 – Disposal of documents

- 49. Sealing up of documents relating to the poll
- 50. Delivery of documents

- 51. Forwarding of documents received after close of the poll
- 52. Retention and public inspection of documents
- 53. Application for inspection of certain documents relating to election

Part 9 – Death of a candidate during a contested election

- fpp54. Countermand or abandonment of poll on death of candidate
- stv54. Countermand or abandonment of poll on death of candidate

Part 10 – Election expenses and publicity

Expenses

- 55. Expenses incurred by candidates
- 56. Expenses incurred by other persons
- 57. Personal, travelling, and administrative expenses

Publicity

- 58. Publicity about election by the corporation
- 59. Information about candidates for inclusion with voting documents
- 60. Meaning of “for the purposes of an election”

Part 11 – Questioning elections and irregularities

- 61. Application to question an election

Part 12 – Miscellaneous

- 62. Secrecy
- 63. Prohibition of disclosure of vote
- 64 Disqualification

- 65. Delay in postal services through industrial action or unforeseen event

Part 1- 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, or by a class within a constituency, to fill a vacancy among one or more posts on the board of governors;

“the regulator” means the Independent Regulator for NHS foundation trusts; and “the 2006 Act” means the NHS Act 2006

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

Part 2 – Timetable for election

2. Timetable - 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 candidates	Not later than the twenty seventh day
Final day for delivery of notices of withdrawals by candidates from the poll	Not later than twenty fifth day before the day of the close of the poll.
Notice of the poll	Not later than the fifteenth day before the day of the close of the poll
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time - (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, or class within a constituency, for which the election is being held,
- (b) the number of members of the board of governors to be elected from that constituency, or class within that constituency,
- (c) the details of any nomination committee that has been established by the corporation,
- (d) the address and times at which nomination 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, or class within a 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 board of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

13. Signature of candidate – 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 or class within a 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 board 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 board 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 board 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, or class within a constituency, for which the election is being held,
- (c) the number of members of the board of governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote,
- (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 constituencies) – (1) In respect of an election for a public or patient 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 patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a 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.

22. List of eligible voters – (1) The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 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, or class within a constituency, for which the election is being held,
- (c) the number of members of the board of governors to be elected from that constituency, or class with that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the 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 patient constituencies) – (1) In respect of an election for a public or patient 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 patient constituency, or class within a 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 patient constituency) –

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

stv36. Interpretation of Part 6 – In Part 6 of these rules-

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

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

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

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

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule stv44(4) below,

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

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

“quota” means the number calculated in accordance with rule stv41 below,

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

“stage of the count” means –

- (a) the determination of the first preference vote of each candidate,
- (b) the transfer of a surplus of a candidate deemed to be elected, or

(c) the exclusion of one or more candidates at any given time,

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

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

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule stv42 below.

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.

Stv39. 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 the figure “1” standing alone is not placed so as to indicate a

first preference for any candidate,

- (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (d) which is unmarked or rejected because of uncertainty,

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

(2) The returning officer is to endorse the word "rejected" on any ballot paper which under this rule is not to be counted.

(3) The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (d) of paragraph (1).

fpp39. 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.

stv40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

(3) The returning officer is to also ascertain and record the number of valid ballot papers.

stv41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule stv44 has been complied with.

stv42. Transfer of votes – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

- (a) according to next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(2) The returning officer is to count the number of ballot papers in each parcel referred to in paragraph (1) above.

(3) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) to the candidate for whom the next available preference is given on those papers.

(4) The vote on each ballot paper transferred under paragraph (3) above shall be at a value (“the transfer value”) which –

- (a) reduces the value of each vote transferred so that the total value of all

such votes does not exceed the surplus, and

- (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

(5) Where at the end of any stage of the count involving the transfer of ballot papers, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballot papers in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped –

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(6) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

(7) The vote on each ballot paper transferred under paragraph (6) shall be at –

- (a) a transfer value calculated as set out in paragraph (4)(b) above, or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

(8) Each transfer of a surplus constitutes a stage in the count.

(9) Subject to paragraph (10), the returning officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

(10) Transferable papers shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are –

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

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

stv43. Supplementary provisions on transfer – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

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

(2) The returning officer shall, on each transfer of transferable papers under rule stv42 above –

- (a) record the total value of the votes transferred to each candidate,
- (b) add that value to the previous total of votes recorded for each candidate and record the new total,
- (c) record as non-transferable votes the difference between the surplus

and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and

(d) compare—

(i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

(3) All ballot papers transferred under rule stv42 or stv44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule stv42 or stv44 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

stv44. Exclusion of candidates – (1) If—

(a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule stv45 below, one or more vacancies remain to be filled,

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

(2) The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (1) above into two sub-parcels so that they are grouped as—

- (a) ballot papers on which a next available preference is given, and
- (b) ballot papers on which no such preference is given (thereby including ballot papers on which preferences are given only for candidates who are deemed to be elected or are excluded).

(3) The returning officer shall, in accordance with this rule and rule stv43 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

(4) The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.

(5) If, subject to rule stv45 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

(6) The returning officer shall transfer those papers in the sub-parcel of transferable papers with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers (thereby passing over candidates who are deemed to be elected or are excluded).

(7) The vote on each transferable paper transferred under paragraph (6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (1) above.

(8) Any papers on which no next available preferences have been expressed shall be set aside as non-transferable votes.

(9) After the returning officer has completed the transfer of the ballot papers in the sub-parcel of ballot papers with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot papers with the next highest value

and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (1) above.

(10) The returning officer shall after each stage of the count completed under this rule—

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

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule stv42 and rule stv43.

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

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

- (a) regard shall be had to the total number of votes credited to those

candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and

- (b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

stv45. Filling of last vacancies – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

(3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

(4) Where the number of votes credited to two or more candidates were equal at all

stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

fpp46. 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

fpp47. 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 board of governors from the constituency, or class within a 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 [insert name] NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman 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.

stv47. 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 candidates who are deemed to be elected under Part 6 of these rules as elected,
- (b) give notice of the name of each candidate who he or she has declared elected –
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

(2) The returning officer is to make –

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule stv39(1),

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 chairman 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 spoiled 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 of –

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

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,

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 11.

(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

fpp54. 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 or class, 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 or class.

(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, or class within a 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 chairman of the corporation, and rules 52 and 53 are to apply.

stv54. 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) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

(2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

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 11 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 11 – 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(7) shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.

c. The Regulator may prescribe rules of procedure for the determination of an application including costs.

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

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

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

- (i) the name of any member of the corporation who has or has not been given 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 poll, with the agreement of the regulator.

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

(Paragraph 14.3)

1 Terms of Office of Initial Council of Governors

1.1 Within each Relevant Grouping below, those elected to be the Trust's initial Governors who secure the greatest number of votes in a contested election shall serve for three years and those securing fewer votes shall serve for two years.

Relevant Grouping	No. of Governors who shall serve 2 years	No. of Governors who shall serve 3 years	Total no. of Governors
Ashton, Leigh and Wigan	2	3	5
Halton	1	2	3
St Helens	2	2	4
Warrington	2	2	4
Community Dental	-	1	1
Rest of England	-	1	1
Registered nurses and midwives	1	2	3
Allied health professionals / other registered healthcare professionals	1	1	2
Clinical support staff, including Assistant Practitioners / Healthcare Assistants and trainee clinical staff	-	1	1
Registered medical practitioners	-	1	1
Registered dentists	-	1	1
Non-clinical support staff including managerial and administrative staff	-	1	1

- 1.2 But each of the Governors declared elected in an uncontested election shall serve for three years.

2 Remuneration

- 2.1 Governors are not to receive remuneration, provided that this shall not prevent the remuneration of Governors by their employer.

3 Vacancies

- 3.1 In the event of an Elected Governor's seat falling vacant for any reason before the end of the term of office it shall be filled by the second place candidate in the last held election for that seat provided that the second place candidate achieved at least five percent of the vote in the last held election for that seat. If that individual declines it shall be filled by the third place candidate provided that the third place candidate achieved at least five percent of the vote in the last held election for that seat (the "Reserve Governor"). If the vacancy is filled in this way the Reserve Governor shall be eligible (subject to complying with paragraph 13.3 of the Constitution) to serve three terms of office (subject to re-election) including the partial term served.
- 3.2 In the event that a Reserve Governor is not available under paragraph 3.1 above, a by-election shall be held in accordance with the Model Rules for Election unless an election is due within 6 months in which case the seat shall stand vacant until the following scheduled election.
- 3.3 In the event of an Appointed Governor's seat falling vacant for any reason before the end of the term of office, the Trust will request that the relevant partnership organisation appoint a replacement governor within 30 days. Appointed Governors shall be replaced in accordance with the processes agreed pursuant to paragraph 4 of Annex 4.
- 3.4 The validity of any act of the Council of Governors is not affected by any vacancy among the Governors or by any defect in the appointment of any Governor.

4 Meetings

- 4.1 The Council of Governors is to meet at least four times per year, including an annual meeting no later than 30 September in each year apart from the first 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.
- 4.2 The Trust Secretary shall call meetings in accordance with paragraph 4.1 above.

5 Working Groups

- 5.1 The Council of Governors may appoint Working Groups consisting wholly or partly of its members to assist it in carrying out its functions.

- 5.2 The Council of Governors may appoint its members to serve on joint working groups with the Board of Directors.
- 5.3 These working groups may call upon outside advisers to help them in their tasks, provided that the financial and other implications of seeking outside advisers have been discussed and agreed by the Board of Directors. Any conflict arising between the Council of Governors and the Board of Directors under this paragraph will be determined in accordance with the Dispute Resolution Procedure.

6 Removal of Governor from office

- 6.1 A person holding office as a Governor shall immediately cease to do so if:
- 6.1.1 they resign by notice in writing to the Trust Secretary;
 - 6.1.2 they fail to attend three consecutive Council of Governor or members meetings, unless the other Governors are satisfied (to be determined by a vote in accordance with paragraph 3.18 of Annex 7) that:
 - 6.1.2.1 the absences were due to reasonable causes; and
 - 6.1.2.2 they will be able to start attending meetings of the Council of Governors and members meetings again within such a period as the other Governors consider reasonable;
 - 6.1.3 in the case of an elected Governor, they cease to be a member of the class of the constituency by which they were elected;
 - 6.1.4 in the case of an appointed Governor, the appointing organisation terminates the appointment;
 - 6.1.5 they have refused without reasonable cause to undertake any training which the Council of Governors requires all Governors to undertake;
 - 6.1.6 they have failed to agree, or having agreed, fail to abide by the code of conduct for Governors and the Nolan principles or to deliver to the Trust Secretary a statement in the form required confirming acceptance of the code of conduct for Governors;
 - 6.1.7 they are removed from the Council of Governors under clause 6.2.
- 6.2 A Governor may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting on the grounds that:
- 6.2.1 they have committed a serious breach of the code of conduct; or
 - 6.2.2 they have acted in a manner detrimental to the interests of the Trust; or
 - 6.2.3 they have expressed opinions which are incompatible with the values of the Trust; and

- 6.2.4 the Council of Governors consider that it is not in the best interests of the Trust for them to continue as a Governor; or
- 6.2.5 they have not been able to appropriately discharge their responsibilities and duties by reason of illness or injury following a period of monitoring and support by the Trust Secretary.

7 Role of the Council of Governors

- 7.1 In addition to the roles and responsibilities of the Council of Governors as set out in this Constitution, the Governors also have roles and responsibilities to:
 - 7.1.1 support the Board of Directors in setting the longer-term vision for the Trust, to influence proposals to make changes to services and to act in a way that is consistent with NHS and the Trust's values and this Constitution;
 - 7.1.2 engage in dialogue with and provide advice to the Board of Directors with regard to the Trust's future vision and strategy and to act as a source of ideas about how the Trust can provide its services in ways that meet the needs of the community it serves;
 - 7.1.3 review annually the extent to which the Trust is meeting its objective of delivering high quality services;
 - 7.1.4 work with the Board of Directors on such other matters for the benefit of the Trust as may be agreed between them;
 - 7.1.5 exercise other functions at the request of the Board of Directors.

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

(Paragraph 16)

CONTENTS

INTERPRETATION

1. INTRODUCTION

1.1 The Regulatory Framework

2. THE COUNCIL OF GOVERNORS

2.1 Composition of the Council

2.2 Role of the Chairman

3. MEETINGS OF THE COUNCIL

3.1 Calling meetings

3.3 Notice of meetings

3.7 Setting the agenda

3.9 Attendance and questions from the public

3.11 Chairman of meeting

3.12 Notices of motion

3.13 Withdrawal of motion or amendments

3.14 Motion to rescind a resolution

3.15 Motions

3.17 Chairman's ruling

3.18 Voting

3.23 Minutes

3.26 Waiver of Standing Orders

- 3.29 Variation and amendment of Standing Orders
- 3.30 Record of attendance
- 3.31 Quorum

4. DELEGATION OF FUNCTIONS AND STATUS OF STANDING ORDERS

5. COMMITTEES

6. DECLARATIONS OF INTEREST AND REGISTER OF INTERESTS

7. DISPUTE RESOLUTION PROCEDURES

8. PROCESS FOR THE APPOINTMENT OF AUDITORS

9. STANDARDS OF BUSINESS CONDUCT

10. DECLARATION OF ELIGIBILITY

11. MISCELLANEOUS

GOVERNORS DECLARATION

INTERPRETATION

1. Save as otherwise permitted by law and subject to the Constitution, at any meeting the Chairman shall be the final authority on the interpretation of the Standing Orders, with a right of appeal to a committee of the Council of Governors convened for that purpose, whose decision shall be final and binding except in case of manifest error.

2. Any expression to which a meaning is given in the National Health Service Act 2006 and other Acts relating to the National Health Service or in the Financial Regulations made under the Act or regulations made under it shall have the same meaning for the purposes of these Standing Orders and in addition;

Council of Governors and (unless the context requires otherwise) "Council"	The Council of Governors of the Trust as constituted by the Constitution;
Board of Directors	Chairman, Executive and Non-Executive Directors of the Trust collectively as a body;
Chair of the Council or Chair of the Trust	Person appointed by the Council of Governors to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chair of the Trust" shall be deemed to include the Deputy Chair of the Trust if the Chairman is absent from the meeting or otherwise unavailable;
Chief Executive	Chief Executive Officer of the Trust;
Committee	A Committee of the Council of Governors;
Constitution	The Constitution of the Trust;
Committee members	Chairman of the committee and the Governors

	(and other people by invitation) formally appointed by the Council of Governors to sit on or to chair specific committees;
Executive Director	A member of the Board of Directors holding an executive office of the Trust;
Member of the Council	A Governor of the Trust. (Member of the Council in relation to the Council of Governors does not include the Chairman);
Non-Executive Director	A member of the Board of Directors who does not hold an executive office of the Trust;
SOs	Refers to the Standing Orders of the Council of Governors;
Secretary	A person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Council and the Chairman and monitor the Trust's compliance with the Regulatory Framework and these Standing Orders;
Deputy Chairman	The Non-Executive Director appointed from amongst the Non-Executive Directors as Deputy Chairman by the Council of Governors in accordance with the Constitution to take on the Chairman's duties if the Chairman is absent for any reason.

1. INTRODUCTION

1.1 Regulatory Framework

The Trust is a statutory body which became a public benefit corporation on .xxxxxx... following its approval as an NHS Foundation Trust by Monitor pursuant to the National Health Service Act 2006.

NHS Foundation Trusts are governed by the National Health Service Act 2006, by their constitutions, and by the terms of their licence granted by Monitor (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. All business of the Council of Governors will be conducted in the name of the Trust.

2. THE COUNCIL OF GOVERNORS

2.1 Composition of the Council

The composition of the Council of Governors is set out in the Constitution.

2.2 Role of the Chairman

The Chairman is the Chair of the Trust. The Chairman is not a member of the Council of Governors. Under the Regulatory Framework, the Chairman presides at meetings of the Council of Governors and has a casting vote.

Where the Chairman ceases to hold office, or where s/he has been unable to perform his/her duties as Chairman owing to illness or any other cause, the Deputy Chairman (a Non-Executive Director appointed by the Council of Governors) shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes his/her duties, as the case may be. References to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform his/her duties, be taken to include references to the Deputy Chairman.

3. MEETINGS OF THE COUNCIL

Calling meetings

3.1 Ordinary meetings of the Council of Governors shall be held at such times and places as the Chairman may determine. At least 4 meetings will be held each year. One such meeting shall be the Annual General Meeting. Meetings will normally be held in public. However the Council may resolve to exclude the public where it wishes to discuss particular issues in private session.

3.2 The Chairman may call meetings of the Council of Governors. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Governors including at least two elected and two appointed Governors, has been presented to him/her, or if, without so refusing, the Chairman does not call a meeting within 7 days after such requisition has been presented to him/her, at the Trust's Headquarters, such one third or more Governors may forthwith call a meeting of the Council.

3.3 Notice of meetings

3.3.1 Before each meeting of the Council of Governors, a notice of the meeting signed by the Chairman or by an officer of the Trust authorised by the Chairman to sign on his/her behalf shall be delivered to every member of the Council, or sent by post to the usual place of residence of such Governor, no less than seven clear days in advance of the meeting, including weekends.

3.3.2 Notice of business to be transacted

Before each meeting of the Council of Governors, an agenda setting out the business of the meeting, signed by the Chairman or by an officer of the Trust authorised by the Chairman to sign on his/her behalf shall be delivered to every member of the Council of Governors, or sent by post to the usual place of residence of such Governor specifying the business proposed to be transacted at it so as to be available to the Governor at least five clear days before the meeting, including weekends. Supporting papers, whenever possible, shall accompany the agenda, but will be dispatched no later than three clear days before the meeting save in an emergency.

3.4 Lack of service of the notice on any Governor shall not affect the validity of a meeting.

3.5 In the case of a meeting called by the Governors in default of the Chairman, the notice shall be signed by those respective Governors and no business shall be transacted at the meeting other than that specified in the notice.

3.6 A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of first class post or otherwise on the day following electronic or facsimile transmission.

3.7 Setting the agenda

The Council of Governors may determine that certain matters shall appear on every agenda for a meeting of the Council of Governors and shall be addressed prior to any other business being conducted (such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an appendix to the Standing Orders).

3.8 A Governor desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 15 clear days including weekends before the respective meeting. Requests made less than 15 days before a meeting may be included on the agenda at the discretion of the Chairman.

3.9 Attendance and questions from the public

The public shall be welcome at all meetings of the Council of Governors unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chairman may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

Up to 15 minutes will be set aside at the end of each ordinary meeting to enable members of the public or other interested parties to ask questions of the Council. Questions on any matter that has been discussed at the meeting can be raised at this point. Questions on general matters related to the business of the Trust should be sent in writing to the Chairman at least 10 days prior to the meeting.

3.10 Nothing in these standing orders shall require the Trust to allow members of the public and representatives of the press to record proceedings in any manner whatsoever, other than in writing, or to make any oral report of proceedings as they take place, without the prior agreement of the Chairman.

3.11 Chairman of meeting

At any meeting of the Council, the Chairman of the Council, if present, shall preside. If the Chairman is absent from the meeting, or absent temporarily on the grounds of a declared conflict of interest, the Deputy Chairman of the Trust, if there is one, and s/he is present, shall preside. If the Chairman and Deputy Chairman are absent, such Non-Executive Director as the Non-Executive Directors present shall choose, shall preside. Where the Chairman, Deputy Chairman, and other Non-Executive Directors are all absent or have a conflict of interest, the Deputy Chairman (to be appointed from amongst the Council of Governors) shall preside at the meeting and shall have a casting vote.

3.12 Notices of motion

A Governor of the Trust desiring to move or amend a motion shall send a written notice thereof signed by at least one other Governor at least 15 clear days before the meeting to the Chairman, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible. This paragraph shall not prevent any motion being moved during the meeting without notice, on any business mentioned on the agenda.

Emergency Motions: Subject to the agreement of the Chairman, a Governor 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 Council at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision to include or exclude the item shall be final.

3.13 Motions: Procedure at and during a meeting

i) Who may propose

A motion may be proposed by the Chairman of the meeting or any Governor present. It must also be seconded by another Governor.

ii) Contents of motions

The Chairman 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:

- the reception of a report;
- consideration of any item of business before the Council;
- the accuracy of minutes;
- that the Council proceed to next business;
- that the Council adjourn; or
- that the question be now put.

iii) **Motion once under debate**

When a motion is under discussion or immediately prior to discussion it shall be open to a Governor to move:

- An amendment to the motion;
- The adjournment of the discussion or the meeting;
- That the meeting proceed to the next business; (*)
- the motion be now put.; (*)
- that a Governor be not further heard; or
- a motion resolving to exclude the public, including the press.

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

iv) **Amendments to motions**

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

Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Council. The Chairman's decision on this will be final.

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.

v) **Rights of reply to motions**

a) Amendments

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.

b) Substantive/original motion

The member who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

vi) **Time limits**

The mover of a motion shall have a maximum of five minutes to propose the motion and three minutes to reply. Once a proposition has been proposed, no Governor shall speak more than once or for more than three minutes.

3.14 Withdrawal of motion or amendments

A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and consent of the Chairman.

3.15 Motion to rescind a resolution

Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Governor who gives it and also the signature of 4 other Governors. When any such motion has been disposed of by the Council, it shall not be competent for any Governor other than the Chairman to propose a motion to the same effect within 6 months, however the Chairman may do so if he/she considers it appropriate.

3.16 Chairman's ruling

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

- 3.17 If a Governor persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the Governor be not heard further. If seconded, the motion will be voted on without discussion. If the Governor continues to behave improperly after such a motion is carried, the Chairman may move that either the Governor leaves the meeting room or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

3.18 Voting

Every question at a meeting shall be determined by a majority of the votes of the Chairman of the meeting and the Governors present and voting on the question and, in the case of any equality of votes, the Chairman or person presiding shall have a second or casting vote.

- 3.19 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A secret paper ballot may also be used if a majority of the Governors present so request.
- 3.20 If at least one third of the Governors present so request, the voting (other than by secret paper ballot) on any question may be recorded to show how each Governor present voted or abstained.
- 3.21 If a Governor so requests his/her vote shall be recorded by name upon any vote (other than by secret paper ballot).
- 3.22 In no circumstances may an absent Governor vote by proxy. Absence is defined as being absent at the time of the vote.

3.23 Minutes

The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next meeting where they will be signed by the Chairman or other person presiding at the meeting.

- 3.24 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman or other person presiding at the meeting considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the meeting.
- 3.25 Minutes shall be circulated in accordance with the Council's wishes. Where providing a record of a public meeting the minutes shall be made available to the public.

3.26 Waiver of standing orders

These standing orders shall not be waived except:

3.26.1 where urgent action is required and the Chairman considers it to be in the interests of the Trust to waive one or more of the Standing Orders, s/he may do so, subject to such action being reported to and ratified by the next meeting of the Council;

3.26.2 upon a notice of motion under Standing Order 3.12; or

3.26.3 where at least 11 Governors are present of whom at least 6 must be public Governors, by a vote at a meeting.

3.27 A decision to waive Standing Orders shall be recorded in the minutes of the next meeting of the Council of Governors.

3.28 All waivers of Standing Orders shall be reported to the Audit Committee. The Committee shall review every decision to waive the Standing Orders.

3.29 Variation and amendment of standing orders

3.29.1 These Standing Orders shall only be amended in accordance with paragraph 41 of the Constitution.

3.30 Record of attendance

The names of the Chairman and Governors, and any invited attendees present at the meeting shall be recorded in the minutes.

3.31 Quorum

No business shall be transacted at a meeting of the Council of Governors unless at least 11 are present of whom at least 6 must be elected public or patient Governors. If insufficient members to constitute a quorum are in attendance within 30 minutes of the time fixed for a meeting, the meeting

will stand adjourned for 7 days and at the reconvened meeting those present will constitute a quorum.

- 3.32 If a Governor has been disqualified from participating in the discussion on any matter and/or from voting on any resolution because of the declaration of a conflict of interest he/she 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.

4. DELEGATION OF FUNCTIONS AND STATUS OF STANDING ORDERS

4.1 Delegation of power to committees

The Council may not delegate any of its functions or powers to any sub-committees or committees of the Council.

4.2 Non-Compliance with Standing Orders

If for any reason these Standing Orders 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 for action or ratification. All members of the Council have a duty to disclose any non-compliance with these Standing Orders to the Secretary as soon as possible.

5. WORKING GROUPS AND COMMITTEES

5.1 Appointment of Working Groups

The Council of Governors may appoint working groups of the Council of Governors consisting wholly or partly of its members. The Council of Governors may not delegate any of its powers to a working group but working groups may

act in an advisory capacity to assist the Council of Governors in carrying out its functions.

5.2 Nominations Committee and other Committees as Monitor may require

5.2.1 Subject to the Constitution and guidance as may be given by Monitor, the Council shall appoint a Nominations Committee and such other committees as Monitor may require.

5.2.2 The Nominations Committee shall regularly review the structure, size, and composition of the Board of Directors and make recommendations for changes where appropriate.

5.2.3 As part of the process for appointments, the Nominations Committee will be responsible for the identification and nomination of Non-Executive Directors.

5.2.4 The Chairman of the Trust or (if the Nominations Committee is considering the appointment of the Chairman) the Deputy Chairman of the Trust or another Non-Executive Director will chair the Nominations Committee. Other members of the Nominations Committee shall include three public Governors, one staff Governor and one appointed Governor.

5.2.5 The Nominations Committee will operate in accordance with guidance set out in the NHS Foundation Trust Code of Governance issued by Monitor, or as shall from time to time be further issued by Monitor.

5.2.6 The Nominations Committee shall work with the Board of Directors to prepare a specification for any vacant position as Non-Executive Director.

5.2.7 The Nominations Committee shall undertake appropriate training to fulfill their role.

5.3 Confidentiality

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

5.4 A Governor of the Trust or a member of a working group or a committee shall not disclose any matter reported to the Council or otherwise dealt with by the working group or the committee, notwithstanding that the matter has been reported or action has been concluded, if the Council or the working group or the committee shall resolve that it is confidential.

5.5 A Governor of the Trust or a member of a working group or a committee shall not reveal or disclose the contents of papers marked 'In Confidence' or minutes headed 'Items Taken in Private' outside of the Trust, without the express permission of the Trust. This prohibition shall apply equally to the content of any discussion during the meeting which may take place on such reports or papers.

6. DECLARATION OF INTERESTS AND REGISTER OF INTERESTS

6.1 The Regulatory Framework requires Council members to declare interests which are relevant and material to the Council. Interests should be

declared on appointment and updated to the Secretary as circumstances change, or as directed by Monitor, and at least annually.

- 6.2 Interests which should be regarded as 'relevant and material' are set out in paragraph 17 of the Trust's Constitution.

- 6.3 At the time Council members' interests are declared, they should be recorded in the Council's minutes. Any changes notified to the Secretary in between meetings should be declared at the next Council meeting following the change occurring.

- 6.4 Council members' directorships of companies currently doing business with the NHS or seeking to do business with the NHS (whether currently or where this is likely or possible in the future) should be published in the Council's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

- 6.5 During the course of a meeting, if a conflict of interest is established, the member of the Council concerned should withdraw from the meeting and play no part in the relevant discussion or decision.

- 6.6 If Council members have any doubt about the relevance of an interest this should be discussed with the Chairman (who must consult the Secretary) or the Secretary.

6.7 Register of Interests

The Secretary shall maintain a register of members' interests. This will include details of all directorships and other relevant and material interests which have been declared by Council members as defined in Standing Order 6.2.

- 6.8 The register will be subject to regular review by the Secretary at each meeting or as directed by Monitor. The register will be updated as and when members' declare an interest/revise a declaration. Any such changes made will be declared and noted at the next meeting of the Council of Governors.
- 6.9 The register will be available to the public and the Chairman will take reasonable steps to bring the existence of the register to the attention of the local population and to publicise arrangements for viewing it.
- 6.10 In establishing, maintaining, updating and publicising the register, the Trust will comply with all guidance issued from time to time by Monitor.

7. DISPUTE RESOLUTION PROCEDURES

Provisions to establish procedures for the resolution of disputes are set out in Annex 9 of the Trust's Constitution.

8. PROCESS FOR THE APPOINTMENT OF AUDITORS

- 8.1 The Council of Governors shall create a duly authorised committee which shall be composed of two public Governors, a staff Governor and an appointed Governor.
- 8.2 The committee will consult the Chairman of the Audit Committee, Non-Executive Directors and the Chief Executive regarding the necessary skills required.

- 8.3 The committee shall advertise in the national media to seek tenders from organisations they consider appropriate against a specification agreed by the Council of Governors to be appropriate to the task.
- 8.4 The committee shall then shortlist appropriate firms to be considered.
- 8.5 The committee shall then consult the Chairman of the Audit Committee, Non-Executive Directors and Chief Executive on the shortlist.
- 8.6 The committee shall then interview representatives from each firm.
- 8.7 The committee shall then consider those firms and recommend one to the full Council of Governors.
- 8.8 The Council of Governors shall formally convey their decision to the successful firm's representatives and to the Chairman of the Audit Committee and the Chief Executive.

9. STANDARDS OF BUSINESS CONDUCT

- 9.1 Governors should comply with the Trust's values, the Trust's code of conduct, Trust's policy on Standards of Business Conduct and the requirements of the Regulatory Framework and any binding guidance issued by Monitor.
- 9.2 **Canvassing of and recommendations by, members of the Council in relation to appointments**

Canvassing of Directors or Governors of the Trust or of any committee of the Trust directly or indirectly for any appointment with the Trust shall disqualify the candidate for such appointment. This clause of the Standing Orders shall be brought to the attention of candidates.

9.3 A member of the Council shall not solicit for any person any appointment with the Trust or recommend any person for such appointment. This clause of the Standing Orders shall not preclude a member of the Council from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

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

10. DECLARATION OF ELIGIBILITY

10.1 Prior to the date of authorisation of the Trust by Monitor, all Governors (elected and appointed) shall be required to sign a declaration of their right to represent their constituency or nominating organisation, as the case may be, and vote at Council of Governors' meetings. All Governors appointed or elected after the date of authorisation of the Trust by Monitor, shall be required to make such a declaration on the day of their appointment or election.

10.2 The declaration referred to in paragraph 10.1 above shall be in the form attached at Part 1.

11. MISCELLANEOUS

11.1 Standing Orders to be given to members of the Council

It is the duty of the Secretary to ensure that existing and new members of the Council are notified and understand their responsibilities within the Constitution and these Standing Orders.

11.2 Review of Standing Orders

These Standing Orders shall be reviewed at least every three years, and more often if there are changes in the Regulatory Framework.

PART 1

GOVERNORS' DECLARATION

Bridgewater Community Healthcare NHS Foundation Trust (the "Trust")

I, (insert name)

Of (insert address)

Hereby declare that I am entitled to:-

- (a) be elected to the Council of Governors as a Governor elected by *one of the Public Constituencies/ the Staff Constituencies** because I am a member of one of the *Public Constituencies /Staff Constituencies **; or
- (b) be appointed to the Council of Governors as a Governor because I have been appointed by a nominating organisation in accordance with paragraph 11 of the Constitution;

and that I am not prevented from being a member of the Council of Governors of the Trust by paragraph 8 of Schedule 7 of the National Health Service Act 2006 or under paragraph 14 of the Constitution of the Trust and that I am entitled to vote at meetings of the Council of Governors as a Governor pursuant to such appointment or election.

Signed

Print
Name.....

Date of Declaration

*delete as appropriate

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

Paragraph 28

FOREWORD

INTRODUCTION

Statutory Framework

NHS Framework

Delegation of Powers

Note

1. INTERPRETATION

2. THE TRUST

Composition of the Trust

Appointment of the Chairman and Directors

Terms of Office of the Chairman and Directors

Appointment of Deputy Chairman

Powers of Deputy Chairman

Joint Directors

3. MEETINGS OF THE TRUST

Calling Meetings

Notice of Meetings

Setting the Agenda

Chairman of Meeting

Notices of Motion

Withdrawal of Motion or Amendments

Motion to Rescind a Resolution

Motions

Chairman's Ruling

Voting

Minutes

Joint Directors

Suspension of Standing Orders

Variation and Amendment of Standing Orders

Record of Attendance

Quorum

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

Emergency Powers

Delegation to Committees

Delegation to Officers

5. COMMITTEES

Appointment of Committees

Confidentiality

6. DECLARATIONS OF INTEREST AND REGISTER OF INTEREST

Declaration of Interest

Register of Interests

7. DISABILITY OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

8. STANDARDS OF BUSINESS CONDUCT

Policy

Interest of Officers in Contracts

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

Relatives of Directors or Officers

9. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

Custody of Seal

Sealing of Documents

Register of Sealing

10. SIGNATURE OF DOCUMENTS

11. MISCELLANEOUS

Standing Orders to be given to Directors and Officers

Documents having the Standing of Standing Orders

Review of Standing Orders

INTRODUCTION

Statutory Framework

Bridgewater Community Healthcare NHS Foundation Trust (the Trust) is a body corporate which became a public benefit corporation on xxxx following its approval as an NHS Foundation Trust by Monitor pursuant to the National Health Service Act 2006 (the 2006 Act).

The Trust Offices are at Bevan House, 17 Beecham Court, Smithy Brook Road, Pemberton, Wigan WN3 6PR.

NHS Foundation Trusts are governed by the National Health Service Act 2006 (the "2006 Act") and their constitutions (the Regulatory Framework).

The functions of the Corporation are conferred by the Regulatory Framework.

As a body corporate 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.

Reservation and Delegation of Powers

Under the Standing Orders relating to the Arrangements for the Exercise of Functions (SO 4) the Board 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 5 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit.

1 INTERPRETATION

- 1.1 Save as permitted by law and subject to the Constitution, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which he/she should be advised by the Chief Executive or Secretary).
- 1.2 Any expression to which a meaning is given in the 2006 Act or in the Regulations or Orders made under the 2006 Act shall have the same meaning in this interpretation and where there is a conflict between the 2006 Act and another legislative provision the 2006 Act interpretation shall prevail (unless, in either case, the context otherwise requires) and in addition:

"Accounting officer" shall be the Officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets and performing the functions delegated to him by the Constitution in relation to the Trust's accounts. For this Trust it shall be the Chief Executive;

"Trust" means Bridgewater Community Healthcare NHS Foundation Trust;

"Board of Directors" and **"Board"** (unless the context otherwise requires) shall mean the Chairman and other Non-Executive Directors, and the Executive Directors appointed by the relevant committee of the Trust;

"Council of Governors" means the Council of Governors of the Trust;

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

"Chairman" is the person appointed by the Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Deputy Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable;

"Chief Executive" shall mean the Chief Executive Officer of the Trust;

"Committee" shall mean a committee of the Board of Directors;

"Committee Members" shall be the Directors formally appointed by the Trust to sit on or to chair specific committees;

"Constitution" means the Constitution of the Trust;

"Contract" shall include any proposed contract or other course of dealing;

"Deputy Chairman" means the Non-Executive Director appointed by the Council of Governors to take on the Chairman's duties if the Chairman is absent for any reason;

"Director" shall mean a person appointed as a Director in accordance with the Constitution and includes the Chairman;

"Finance Director" shall mean the Chief Finance Officer of the Trust;

"Funds held on Trust" shall mean those funds which the Trust holds on trust at its date of authorisation as an NHS Foundation Trust or chooses subsequently to accept. Such funds may or may not be charitable;

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

"Nominated Officer" means an officer charged with the responsibility for discharging specific tasks within Standing orders (SOs) and Standing Financial Instructions (SFIs);

"Officer" means an employee of the Trust;

"SFIS" means Standing Financial Instructions;

"SOS" means Standing Orders;

"**Spouse**" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);

"**Secretary**" means a person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the Regulatory Framework and these standing orders.

2. THE TRUST

2.1 All business shall be conducted in the name of the Trust.

2.2 The Trust has the functions conferred on it by the Regulatory Framework.

2.3 All funds received in trust shall be in the name of the Trust as corporate trustee. 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 a corporate trustee are acting as quasi-trustees. Accountability for charitable funds held on trust is to the Charity Commission.

2.5 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board in formal session. Those powers and decisions delegated by the Board are set out in the "Scheme of Delegation", which has effect as if incorporated into the Standing Orders.

2.6 **Composition of the Board** - In accordance with, but always subject to, the provisions of the Constitution, the composition of the Board shall be:

- the Chairman

- seven other Non-Executive Directors excluding the Chairman

- five Executive Directors including:

- The Chief Executive (and Accounting Officer);

- The Director of Finance;
- A medical or dental practitioner; and
- A registered nurse or registered midwife.

2.7 **Appointment of the Chairman and other Non-Executive Directors** - The Chairman and the other Non-Executive Directors are appointed by the Council of Governors.

2.8 **Appointment of the Executive Directors** - The Chief Executive is appointed by the Chairman and other Non-Executive Directors, subject to the approval of the Council of Governors. The other Executive Directors are appointed by the Appointments Committee that the Board shall appoint from time to time for that purpose.

2.9 **Not used**

2.10 **Appointment of Deputy Chairman** - Subject to SO 2.11 below, the Council of Governors will appoint one of the Non-Executive Directors to be Deputy Chairman, for such period, not exceeding the remainder of his term as a Director, as they may specify on appointing him/her.

2.11 Any Director so appointed may at any time resign from the office of Deputy Chairman by giving notice in writing to the Chairman. The Council of Governors may thereupon appoint another Non-Executive Director as Deputy Chairman in accordance with the provisions of Standing Order 2.10.

2.12 **Powers of Deputy Chairman** - Where the Chairman of the Trust has died or has ceased to hold office, or where he is unable to perform his duties as Chairman owing to illness or any other cause, the Deputy Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes his duties, as the case may be; and references to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform his duties, be taken to include references to the Deputy Chairman.

2.13 **Appointment and Powers of Senior Independent Director** - Subject to SO 2.14 below, the Chairman (in consultation with the Non-Executive Directors and the Council of Governors) may appoint any Director, who is also a Non-Executive Director, to be the Senior Independent Director, for such period, not exceeding the

remainder of his term as a Director, as they may specify on appointing him. The Senior Independent Director shall perform the role set out in the Trust's "Senior Independent Director Job Description", as amended from time to time by resolution of the Board.

- 2.14 Any Director so appointed may at any time resign from the office of Senior Independent Director by giving notice in writing to the Chairman. The Chairman (in consultation with the Non-Executive Directors and the Council of Governors) may thereupon appoint another Member of the Board as Senior Independent Director in accordance with the provisions of Standing Order 2.13.
- 2.15 The posts and duties of the Deputy Chairman and Senior Independent Director will not be combined. This decision may be reviewed at any time by the Board of Directors, in consultation with the Council of Governors.
- 2.16 The role of the Senior Independent Director will include acting as a conduit for concerns to be raised by Governors if the usual mechanisms of contact and discussion have been exhausted and, subject to the agreement of the Council of Governors, making arrangements for the annual evaluation of the performance of the Chairman. The process to achieve this evaluation and its outcome will be agreed with and reported to the Council of Governors.

2.17 **Joint Executive Directors**

Where more than one person is appointed jointly to an Executive Director post those persons shall count as one person for the purposes of these standing orders:

- (a) either or both of those persons may attend or take part in meetings of the Board;
- (b) if both are present at a meeting they should cast one vote if they agree;
- (c) in the case of disagreements no vote should be cast; and
- (d) the presence of either or both of those persons should count as the presence of one person for the purposes of a quorum.

2.18 Role of Directors

The Board will function as a corporate decision-making body; Executive and Non-Executive Directors will be full and equal members. Their role as members of the Board of Directors will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

(1) **Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. He/she is the **Accounting Officer** for the Trust and shall be responsible for ensuring the discharge of obligations under Financial Directions and in line with the requirements of the Accounting Officer Memorandum for Trust Chief Executives.

(2) **Non-Executive Directors**

The Non-Executive Directors shall not be granted nor shall they seek to exercise any individual executive powers on behalf of the Trust. They may however, exercise collective authority when acting as members of or when chairing a committee of the Trust which has delegated powers.

(3) **Chairman**

The Chairman shall work in close harmony with the Chief Executive and shall ensure that key and appropriate issues are discussed by the Board in a timely manner with all the necessary information and advice being made available to the Board to inform the debate and ultimate resolutions.

2.19 Corporate role of the Board

(1) All business shall be conducted in the name of the Trust.

(2) All funds received in trust shall be held in the name of the Trust as corporate trustee.

2.20 Schedule of Matters reserved to the Board and Scheme of Delegation

The Board may resolve that certain powers and decisions be exercised only by the Board. These powers and decisions are set out in the Schedule of Matters Reserved to the Board and shall have effect as if incorporated into the Standing Orders. Those powers which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

3. MEETINGS OF THE BOARD

- 3.1 **Calling Meetings** - Ordinary meetings of the Board shall be held in public at such times and places as the Board may determine. If, for special reasons, the Board of Directors decides that all or any part of a meeting is to be held in private, the public and representatives of the press will 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 meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest”.

Where admitted to a meeting, nothing in these SOs shall require the Board of Directors to allow members of the public or 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 Board of Directors.

- 3.2 The Chairman may call a meeting of the Board at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Directors, has been presented to him/her, or if, without so refusing, the Chairman does not call a meeting within seven days after such requisition has been presented to him, at the Trust’s Headquarters, such one third or more Directors may forthwith call a meeting.
- 3.3 **Notice of Meetings** - Before each meeting of the Board, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by an officer of the Trust authorised by the Chairman to sign on his behalf shall be delivered to every Director, or sent by post to the usual place of residence of such Director, so as to be available to him at least six clear days before the meeting. The agenda will be sent to Directors six days before the meeting, including weekends. Supporting papers, whenever possible, shall accompany the agenda, but will

certainly be dispatched no later than three clear days before the meeting, save in emergency.

- 3.4 Lack of service of the notice on any Director shall not affect the validity of a meeting.
- 3.5 In the case of a meeting called by Directors in default of the Chairman, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice.
- 3.6 A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of first class post or otherwise the day following electronic or facsimile transmission.
- 3.7 **Setting the Agenda** - The Board may determine that certain matters shall appear on every agenda for a meeting of the Board.
- 3.8 A Director desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 15 clear days before the meeting, subject to Standing Order 3.3. 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 15 days before a meeting may be included on the agenda at the discretion of the Chairman.
- 3.9 **Chairman of Meeting** - At any meeting of the Board, the Chairman, if present, shall preside. If the Chairman is absent from the meeting the Deputy Chairman, if there is one and he/she is present, shall preside. If the Chairman and Deputy Chairman are absent such Non-Executive Director as the Directors present shall choose shall preside.
- 3.10 If the Chairman is absent from a meeting temporarily on the grounds of a declared conflict of interest the Deputy Chairman, if present, shall preside. If the Chairman and Deputy Chairman are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.11 **Notices of Motion** - A Director of the Board desiring to move or amend a motion shall send a written notice thereof at least 15 clear days before the meeting to the

Chairman, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations.

Emergency Motions: Subject to the agreement of the Chairman, a member of the Board 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 Trust Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision to include or exclude the item shall be final.

3.12 Motions: Procedure at and during a meeting

i) Who may propose

A motion may be proposed by the Chairman of the meeting or any member present. It must also be seconded by another member.

ii) Contents of motions

The Chairman 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:

- the reception of a report;
- consideration of any item of business before the Trust Board;
- the accuracy of minutes;
- that the Board proceed to next business;
- that the Board adjourn; or
- that the question be now put.

iii) Motion once under debate

When a motion is under discussion or immediately prior to discussion it shall be open to a Director to move:

- An amendment to the motion;
- The adjournment of the discussion or the meeting;
- That the meeting proceed to the next business; (*)
- The appointment of an ad hoc committee to deal with a specific item of business;
- the motion be now put; (*)
- that a member/Director be not further heard; or
- a motion resolving to exclude the public, including the press.

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

iv) **Amendments to motions**

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

Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board. The Chairman's decision on this will be final.

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.

v) **Rights of reply to motions**

a) Amendments

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.

b) Substantive/original motion

The member who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

- 3.13 **Withdrawal of Motion or Amendments** - A motion or amendment once moved and seconded may be withdrawn by the proposer.
- 3.14 **Motion to Rescind a Resolution** - Notice of motion to amend or 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 Director(s) who give(s) it and also the signature of three other Directors. Before considering any such motion of which notice shall have been given, the Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation. When any such motion has been disposed of by the Board, it shall not be competent for any Director other than the Chairman to propose a motion to the same effect within six months; however the Chairman may do so if he/she considers it appropriate. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.
- 3.15 **Chairman's Ruling** - Statements of Directors made at meetings of the Board shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevance, regularity and any other matters shall be observed at the meeting.
- 3.16 **Voting** - Every question at a meeting shall be determined by a majority of the votes of the Directors present and voting on the question. In the case of any equality of votes, the Chairman shall have a further or casting vote.
- 3.17 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A secret paper ballot may also be used if a majority of the Directors present so request.
- 3.18 If at least one-third of the Directors present so request, the voting (other than by secret paper ballot) on any question may be recorded to show how each Director present voted or abstained.

- 3.19 If a Director so requests, his/her vote shall be recorded by name upon any vote (other than by secret paper ballot).
- 3.20 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- An Officer who has been formally appointed 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 meeting 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;
 - For the voting rules relating to joint Executive Directors see Standing Order 2.17.
- 3.21 **Minutes** - The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it.
- 3.22 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the meeting.
- 3.23 **Waiver of Standing Orders** - Except where this would contravene any statutory provision or any guidance issued by Monitor, any one or more of the Standing Orders may be waived at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and two Non-Executive Directors, and that a majority of those present vote in favour of suspension.
- 3.24 A decision to waive Standing Orders shall be recorded in the minutes of the meeting.
- 3.25 The Audit Committee shall review every decision to waive Standing Orders.

- 3.26 **Suspension of Standing Orders** - Except where this would contravene any statutory provision or any guidance issued by Monitor, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and two Non-Executive Directors, and that a majority of those present vote in favour of suspension.
- 3.27 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.28 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Directors.
- 3.29 No formal business may be transacted while Standing Orders are suspended.
- 3.30 The Audit Committee shall review every decision to suspend Standing Orders.
- 3.31 **Variation and Amendment of Standing Orders** - These Standing Orders shall only be amended in accordance with paragraph 41 of the Constitution.
- 3.32 **Record of Attendance** - The names and titles of the Directors present at the meeting shall be recorded in the minutes.
- 3.33 **Quorum** - No business shall be transacted at a meeting of the Board unless at least one third of the whole number of the Directors is present including at least one Executive Director and two Non-Executive Directors.
- 3.34 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 Standing Order 6 or 7) he/she 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 considers the recommendations of the Remuneration Committee).

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

3.36 **Admission of public and the press**

(i) **Admission and exclusion on grounds of confidentiality of business to be transacted**

The public and representatives of the press may attend meetings of the Board of Directors, but shall be required to withdraw when the Board resolves 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 on which would be prejudicial to the public interest.'

Guidance may be sought from the Trust's Freedom of Information Lead to ensure correct procedure is followed on matters to be included in the exclusion.

(ii) **General disturbances**

The Chairman (or Deputy Chairman if one has been appointed) or the person presiding over the meeting shall give such directions as he thinks fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Board's 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 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 its business without the presence of the public.'

(iii) **Business proposed to be transacted when the press and public have been excluded from a meeting**

Matters to be dealt with by the Board following the exclusion of representatives of the press, and other members of the public, as provided in (i) and (ii) above, shall be confidential to the Directors.

Directors or any employee of the Trust in attendance shall not reveal or disclose the contents of papers or minutes then discussed, without the express permission of the Chairman or Chief Executive. This prohibition shall apply equally to the content of any discussion during the Board meeting which may take place on such reports or papers.

(iv) Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings

Nothing in these Standing Orders shall be construed as permitting the introduction by the public, or press representatives, of recording, transmitting, video or similar apparatus into meetings of the Board or Committee thereof. Such permission shall be granted only upon resolution of the Board of Directors.

3.37 Observers at Board meetings

The Board will decide what arrangements and terms and conditions it feels are appropriate to offer in extending an invitation to observers to attend and address any of the Board of Directors meetings and may change, alter or vary these terms and conditions as it deems fit.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

- 4.1 In accordance with Paragraph 15 of Schedule 7 to the 2006 Act the powers of the Trust shall be exercisable by the Board on its behalf, save that (and subject to the Regulatory Framework and such guidance as may be issued by Monitor) the Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee of Directors of the Trust, appointed by virtue of SO 5.1 or 5.2 below or by an Executive Director of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.

- 4.2 **Emergency Powers** - The powers which the Board has retained to itself within these Standing Orders (SO 2.5) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman, after having consulted two Non-Executive Directors where possible. The exercise of such powers by the Chief Executive and the Chairman shall be reported to the next formal meeting of the Board for formal ratification.
- 4.3 **Delegation to Committees** - The Board shall agree from time to time to the delegation of executive powers to be exercised by committees or sub-committees, which it has formally constituted. The Constitution and terms of reference of these committees, or subcommittees, and their specific executive powers shall be approved by the Board.
- 4.4 **Delegation to officers** - Those functions of the Trust which have not been retained as reserved by the Board or delegated to other committees or sub-committees or joint-committees shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the Trust.
- 4.5 The Chief Executive shall prepare a Schedule of Matters reserved to the Board and a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Schedule of Matters reserved to the Board and Scheme of Delegation which shall be considered and approved by the Board as indicated above.
- 4.6 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Finance Director or other Executive Director to provide information and advise the Board in accordance with any statutory requirements or guidance issued by Monitor. Outside these statutory requirements the roles shall be accountable to the Chief Executive for operational matters.
- 4.7 The arrangements made by the Board as set out in the Schedule of Matters reserved to the Board and Scheme of Delegation shall have effect as if incorporated in these Standing Orders.
- 4.8 **Overriding Standing Orders** – If for any reason these Standing Orders 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 for action or ratification. All Board Directors and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive or Chairman of the Audit Committee as soon as possible.

5. COMMITTEES

- 5.1 **Appointment of Committees** - Subject to the Regulatory Framework and any guidance as may be issued by Monitor, the Board may and, if so required by Monitor, shall appoint committees of the Board, consisting wholly of Directors of the Board. The Trust shall determine the membership and terms of reference of these committees and shall if it requires to, receive and consider reports from them. There is no requirement to hold meetings of committees established by the Trust in public.
- 5.2 A committee appointed under SO 5.1 may, subject to any guidance issued by Monitor and to any restriction imposed by the Board, appoint subcommittees consisting wholly of one or more members of the committee.
- 5.3 The Standing Orders of the Board, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Board.
- 5.4 Each such committee or sub-committee shall have such terms of reference and powers, reviewed annually, and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 5.5 Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board.
- 5.6 The Board shall approve the appointments to each of the committees which it has formally constituted.
- 5.7 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 or shall otherwise have concluded on that matter.

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

5.9 **Committees established by the Board of Directors**

The Board may establish committees. These will include:

5.9.1 **Audit Committee**

In line with legislation and the Code of Governance, the Board of Directors will establish and constitute an Audit Committee to provide the Board with an independent and objective review of its financial and internal control systems, financial information and compliance with laws, guidance, and regulations governing the NHS. The terms of reference will be approved by the Board and reviewed on an annual basis.

The Audit Committee will be composed of a minimum of three independent Non-Executive Directors, of which one must have significant, recent and relevant financial experience.

5.9.2 **Remuneration and Terms of Service Committee**

A Remuneration and Terms of Service Committee will be established and constituted by the Board of Directors, comprised of a minimum of three independent Non-Executive Directors. The terms of reference of the Committee will be approved by the Board and reviewed on an annual basis.

The purpose of the Committee will be to decide on the appropriate remuneration, allowances, and terms of and conditions of service for the Chief Executive and other Executive Directors including:

- (i) all aspects of salary (including any performance-related elements/bonuses);

(ii) provisions for other benefits, including pensions and cars; and

(iii) arrangements for termination of employment and other contractual terms.

The Committee may also recommend and monitor the level and structure of remuneration for senior management.

5.9.3 Appointments Committee

The Board shall appoint from time to time an Appointments Committee comprised of the Chairman, the other Non-Executive Directors and the Chief Executive. The purpose of the Appointments Committee shall be to appoint the Executive Directors other than the Chief Executive.

5.10 Other Committees established by the Board of Directors

The Board may also establish such other committees as required to discharge its responsibilities, for example a Finance and Investment Committee and/or a Trust and Charitable Funds Committee.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

6.1 **Declaration of Interests** - Each Director shall declare any interest that he/she is required to declare pursuant to paragraph 29 of the Constitution. All existing Directors should declare such interests. Any Directors appointed subsequently should do so on appointment.

6.2. If Directors have any doubt about the relevance of an interest, this should be discussed with the Chairman.

6.3 **Not used.**

6.4 At the time Directors' interests are declared, they should be recorded in the board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring.

6.5 Directors' directorships of companies currently doing business with the NHS or seeking to do business with the NHS (whether currently or where this is likely or possible in the future) should be published in the Board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

6.6 During the course of a Board meeting, if a conflict of interest is established, the Director concerned should withdraw from the meeting and play no part in the relevant discussion or decision.

6.7 **Not used**

6.8 **Register of Interests** - *The Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Directors. In particular the Register will include details of all directorships and other interests which have been declared by both Executive and Non-Executive Directors. Attendees of Board Committees who are not Board Directors will be required to declare any interests in accordance with paragraph 29 of the Constitution.*

6.9 These details will be kept up to date on a regular basis, and the Register will be formally reviewed by the Secretary once a year.

6.10 The Register will be available to the public and the Secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

6.11 In establishing, maintaining, updating and publicising the Register, the Trust shall comply at all times with the Regulatory Framework and any guidance issued by Monitor. In the event of conflict between these Standing Orders and the Regulatory Framework or guidance issued by Monitor, the latter shall prevail.

6.12 Standing Order 6 applies to a committee or sub-committee of the Board as it applies to the Board and applies to all members of any such committee or sub-committee whether or not he or she is also a Director.

7. **Not used**

8. **STANDARDS OF BUSINESS CONDUCT**

8.1 **Policy** - Staff must comply with the national guidance contained in HSG(93)5 'Standards of Business Conduct for NHS staff', the Trust's Standards for Business Conduct, and any guidance issued by Monitor. In addition, they must adhere to the Trust's Counter Fraud Policy and Procedure for Staff, and any other guidance produced by the Trust.

8.2 **Interest of Officers in Contracts** - If it comes to the knowledge of a Director or an officer of the Trust that a contract in which he has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Trust he/she shall, at once, give notice in writing to the Chief Executive of the fact that he/she is interested therein. In the case of married persons or 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.

8.3 An officer must also declare to the Chief Executive any other employment or business or other relationship of his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The Chief Executive will ensure that such declarations are formally recorded.

8.4 **Canvassing of, and Recommendations by, Directors in Relation to Appointments** –Canvassing of Directors or Governors of the Trust or members of any committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Orders shall be included in application forms or otherwise brought to the attention of candidates.

8.5 A Director of the Trust 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 Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

- 8.6 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 8.7 **Relatives of Directors or Officers** - Candidates for any staff appointment shall when making 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 him/her liable to instant dismissal.
- 8.8 The Directors and every officer of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Director or officer is aware. It shall be the duty of the Chief Executive to report to the Trust any such disclosure made.
- 8.9 On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other Director or holder of any office within the Trust.

9. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

- 9.1 **Custody of Seal** - The Common Seal of the Trust shall be kept by the Secretary in a secure place.
- 9.2 **Sealing of Documents** - Where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of two Directors of the Board, not from the originating department, and shall be attested by them. A report of all sealings shall be made to the Trust Board at least quarterly.
- 9.3 **Register of Sealing** – The Secretary shall keep a register in which he/she, or another manager of the Trust authorised by him/her, shall enter a record of the sealing of every document.

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 or his nominated deputy, unless any enactment otherwise requires or authorises, or the Board shall have given the necessary authority to some other person for the purpose of such proceedings.
- 10.2 In land transactions, the signing of certain supporting documents will be delegated to Managers and set out clearly in the Scheme of Delegation but will not include the main or principal documents effecting the transfer (e.g. sale/purchase agreement, lease, contracts for construction works and main warranty agreements or any document which is required to be executed as a deed), which may only be signed by the Chief Executive or his nominated deputy with a second Director as in SO 9.2 for documents requiring sealing.

11. MISCELLANEOUS

- 11.1 **Standing Orders to be given to Directors and Officers** - 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 staff designated by the Chief Executive. New designated officers shall be informed in writing and shall receive copies where appropriate of SOs.
- 11.2 **Documents having the standing of Standing Orders** - Standing Financial Instructions, the Schedule of Matters reserved for the Board, and Scheme of Delegation shall have the effect as if incorporated into Standing Orders.

ANNEX 9 – FURTHER PROVISIONS

Paragraph 10

1. Membership

- 1.1. When an individual applies to be a member of a public constituency, he or she will be asked to select one of the following levels of membership:
 - 1.1.1. Level 1: Receive information about the Trust and issues affecting local health services at regular intervals, including invitations to events including the Annual Members' Meeting and Annual General Meeting, receive voting papers for the elections to the Council of Governors.
 - 1.1.2. Level 2: Members will receive the same information as Level 1 members and receive invitations to participate in surveys and discussion groups, which will allow members to comment on service developments and the Trust's future strategic plans.
 - 1.1.3. Level 3: Members will receive the same information as Level 1 and 2 members and will also receive more detailed information about Governor vacancies, how to stand for election as a Governor and receive invites to events for potential Governors.
- 1.2. The purpose of this provision is to ensure that members of the public constituencies are able to choose the level of involvement with the Trust.
- 1.3. A member will be able to change his or her preference at any time upon request to the Trust's Membership Office.

2. Expulsion from Membership Procedure

- 2.1. A member may be expelled by a resolution approved by not less than two-thirds of the Governors present and voting at a general meeting. The following procedure is to be adopted:
 - 2.1.1. Any member may complain to the Secretary that another member has acted in a way detrimental to the interests of the Trust.
 - 2.1.2. If a complaint is made, the Council of Governors may itself consider the complaint having taken such steps as it considers appropriate to ensure that each member's point of view is heard and may:
 - 2.1.2.1 dismiss the complaint and take no further action; or
 - 2.1.2.2 for a period not exceeding twelve months suspend the rights of the member complained of to attend members meetings and vote under this Constitution; or
 - 2.1.2.3 arrange for a resolution to expel the member complained of to be considered at the next general meeting of the Council of Governors.
 - 2.1.3. If a resolution to expel a member is to be considered at a general 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.

- 2.1.4. At the general 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.
- 2.1.5. If the member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.
- 2.2. A person expelled from membership will cease to be a member upon the declaration by the Chair of the meeting that the resolution to expel them is carried.
- 2.3. No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a general meeting.

3. Dispute Resolution Procedures

- 3.1. In the event of any dispute about the entitlement to membership the dispute shall be referred to the Trust Secretary who shall make a determination on the point in issue. If the Member or applicant (as the case may be) is aggrieved at the decision of the Secretary he may appeal in writing within 14 days of the Trust Secretary's decision to the Council of Governors whose decision shall be final.
- 3.2. In the event of any dispute about the eligibility and disqualification of a Governor the dispute shall be referred to the Council of Governors whose decision shall be final.
- 3.3. In the event of dispute between the Council of Governors and the Board of Directors:
 - 3.3.1. in the first instance the Chairman on the advice of the Trust Secretary, and such other advice as the Chairman may see fit to obtain, shall seek to resolve the dispute;
 - 3.3.2. if the Chairman is unable to resolve the dispute he or she shall refer the dispute to the Senior Independent Director; and
 - 3.3.3. if the recommendations (if any) of the joint special committee are unsuccessful in resolving the dispute, the Chairman may refer the dispute back to the Board of Directors who shall make the final decision.

4. Indemnity

- 4.1. Members of the Council of Governors and Board of Directors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their Council of Governors or Board of Directors functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.
- 4.2. The Trust must make such arrangements as it considers appropriate for the provision of indemnity insurance or similar arrangement for the benefit of the Trust, Governors and Directors to meet all or any liabilities which are properly the liabilities of the Trust under the paragraph above.

ANNEX 10 – ANNUAL MEMBERS’ MEETINGS

1. Interpretation

- 1.1. Any expression to which a meaning is given in the National Health Service Act 2006 has the same meaning in this interpretation and in addition:

CHAIRMAN is the person appointed by the Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole;

MEMBER means a person who is a member of the Trust and whose name has been entered in the register of members;

OFFICER means an employee of the Trust;

TRUST means Bridgewater Community Healthcare NHS Foundation Trust.

- 1.2. Save as permitted by law, the Chairman of the Trust shall be the final authority on the interpretation of these Standing Orders (on which he/she shall be advised by the Chief Executive and Director of Finance).

2. General Information

- 2.1. The purpose of the Standing Orders for Annual Members’ Meetings is to ensure that the highest standards of corporate governance and conduct are applied to all Annual Members’ Meetings.
- 2.2. All business shall be conducted in the name of the Trust.

3. Attendance

- 3.1. Each Member shall be entitled to attend an Annual Members’ Meeting.

4. Meetings in Public

- 4.1. Annual Members’ Meetings must be open to the public.
- 4.2. The Chairman may exclude any member of the public from an Annual Members’ Meeting if he is interfering with or preventing the reasonable conduct of the meeting.
- 4.3. Annual Members’ Meetings shall be held at such times and places that the Chairman may determine.

5. Notice of Meetings

- 5.1. At least 14 days before each Annual Members’ Meeting, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman, or by an officer of the Trust authorised by the Chairman to sign on his behalf, shall be displayed at the Trust’s head office and posted on the Trust’s website.

6. Setting the Agenda

- 6.1. The Chairman shall determine the agenda for Annual Members' Meetings.

7. Chairman of Annual Members' Meetings

- 7.1. The Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy Chairman shall preside.

8. Chairman's Ruling

- 8.1. Statements made by any person at an Annual Members' Meeting shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.

9. Voting

- 9.1. Decisions at meetings shall be determined by a majority of the votes of the Members present and voting. In the case of any equality of votes, the person presiding shall have a second or casting vote.
- 9.2. All decisions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands.
- 9.3. A Member may not vote at an Annual Members' Meeting unless he/she has made a declaration in the specified form that he/she is a member of a Public Constituency.
- 9.4. The form and content of the declaration for the purposes of paragraph 9.3 above shall be specified and published by the Trust from time to time and shall be so published not less than 28 days prior to the Annual Members' Meeting.
- 9.5. In no circumstances may an absent Member vote by proxy.

10. Suspension of Standing Orders

- 10.1. Except where this would contravene any statutory provision, any one or more of these Standing Orders may be suspended at an Annual Members' Meeting, provided that a majority of Members present vote in favour of suspension.
- 10.2. A decision to suspend the Standing Orders shall be recorded in the minutes of the meeting.
- 10.3. A separate record of matters discussed during the suspension of the Standing Orders shall be made and shall be available to the Members.
- 10.4. No formal business may be transacted while the Standing Orders are suspended.
- 10.5. The Trust's Audit Committee shall review every decision to suspend the Standing Orders.

11. Variation and Amendment of Standing Orders

- 11.1. These Standing Orders may be amended in accordance with paragraph 41 of the Constitution.

12. Record of Attendance

- 12.1. The Secretary shall keep a record of the names of the Members present at an Annual Members' Meeting.

13. Minutes

- 13.1. The Minutes of the proceedings of an Annual Members' Meeting shall be drawn up and maintained as a public record. They will be submitted for agreement at the next Annual Members' Meeting where they will be signed by the person presiding at it.
- 13.2. No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the meeting.
- 13.3. The Minutes of an Annual Members' Meeting shall be made available to the public on the Trust's website.

14. Quorum

- 14.1. No business shall be transacted at an Annual Members' Meeting unless at least 20 Members are present.
- 14.2. If no quorum is present within half an hour of the time fixed for the start of the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other time and place as the Chairman shall determine. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of Members present at the adjourned meeting is to be the quorum.
- 14.3. If the Annual Members' Meeting is adjourned, the Chairman shall arrange for notice to be given as soon as reasonably practicable on the Trust's website and at its principal office of the date, time and place of the adjourned meeting.