FRIMLEY HEALTH
NHS FOUNDATION TRUST
CONSTITUTION

Approved by the Council of Governors	27th March 2019
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1. Interpretation and Definitions

1.1. Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in this Constitution shall bear the same meaning as in the 2006 Act.

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

1.3. References in this Constitution to legislation include all amendments, replacements, or re-enactments made and references to paragraph numbers are references to paragraphs of this Constitution unless the context provides otherwise.

1.4. Save as otherwise permitted by law and subject to the Constitution, at any Board of Directors meeting, the Chairman's interpretation of this Constitution (on which he should be advised by the Chief Executive or Company Secretary) shall be final.

1.5. In this Constitution, the following defined terms have the following meaning:

the 2006 Act means the National Health Service Act 2006 (as amended, including by the 2012 Act);

the 2012 Act means the Health and Social Care Act 2012;

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;

Annual Members' Meeting means the annual meeting of the Trust's Members as defined in paragraph 12.1 of this Constitution**;**

Auditor means the auditor of the Trust as defined in paragraph 39 of this Constitution;

Authorisation is the authorisation issued by Monitor under section 35 of the 2006 Act;

Board of Directors means the board of directors of the Trust as constituted in accordance with this Constitution and referred to in paragraph 24 of this Constitution;

Charitable Funds Committee means the committee responsible for administering charitable funds received by the Trust, as defined in paragraph 50.1 of this Constitution;

Chairman is the non-executive chairman of the Trust appointed by the Council of Governors in accordance with paragraph 26 of this Constitution. The expression "the Chairman" shall be deemed to include the Deputy Chairman or any other Non-Executive Director of the Trust if the Chairman is absent from the meeting or is otherwise unavailable;

Chief Executive means the chief executive and Accounting Officer;

Committee means a committee established by the Board of Directors;

Company Secretary means a person appointed to provide advice on corporate governance issues to the Board of Directors, the Council of Governors and the Chairman;

Constitution means this constitution and all annexes to it, established in accordance with schedule 7 of the 2006 Act and as from time to time amended;

Council of Governors means the council of governors as constituted in accordance with this Constitution and referred to in paragraph 13 of this Constitution;

Deputy Chairman means the Non-Executive Director appointed by the Non-Executive Directors to take on the Chairman's duties in accordance with paragraph 28 of this Constitution if the Chairman is absent for any reason;

Director means an Executive Director or Non-Executive Director of the Board of Directors;

Executive Director means a person appointed as an executive director of the Trust under schedule 7 of the 2006 Act and in accordance with paragraph 29 of this Constitution and who is an Officer;

Finance Director means the suitably qualified Chief Financial Officer of the Trust;

Governor means a person elected or appointed as a member of the Council of Governors in accordance with the Constitution;

Stakeholder Governors means the appointed Governors of the Trust who hold office as set out in paragraph 3 of Annex 3;

Public Governors means the elected public Governors of the Trust who hold office as set out in Annexes 1 and 3;

Staff Governors means the elected staff Governors of the Trust who hold office as set out in Annex 2;

Lead Governor is the public Governor appointed by the Council of Governors in accordance with the SOs of the Council of Governors (as set out in SO 2.5 Annex 6);

Member means a person whose name has been entered into the Trust's register of members as a member of the Trust's Public, Patient(for so long as is applicable) or Staff Constituency;

Model Election Rules means those election rules as published by the Department of Health from time to time;

Monitor is the body corporate known as Monitor, as provided by section 61 of the 2012 Act;

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

Non-Executive Director means a person appointed as a Non-Executive director of the Trust under schedule 7 of the 2006 Act and in accordance with paragraph 26 of the Constitution and who is not an Officer;

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

Public Constituency shall have the meaning given in paragraph 7.2 of this Constitution;

Senior Independent Director means the Non-Executive Director appointed by the Board of Directors in accordance with paragraph 28 of the Constitution;

SFIs means standing financial instructions;

SOs means the standing orders of the Board of Directors and/or the standing orders of the Council of Governors;

Staff Constituency shall have the meaning given in paragraph 8.3 of this Constitution;

Term shall have the meaning given to it in paragraph 14.1 of this Constitution;

Trust shall have the meaning given to it in paragraph 2.1 of this Constitution; and

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

2. Name

2.1. The name of the foundation trust is Frimley Health NHS Foundation Trust (the "**Trust**").

2.2. The Trust incorporates Frimley Park Hospital, Heatherwood Hospital and Wexham Park Hospital.

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

4.2. Any of these powers may be delegated to a Committee of the Board of Directors or to an Executive Director, provided that where such a Committee includes individuals who are not Directors, the Committee shall have a majority of Directors.

4.2.1. Where agreed by any of the office holders described at paragraph 4.2 above decisions may also be made by way of 'E-Governance'.

In such cases the document or issue in need of review should be sent via e-mail and the Board of Directors should have a specified number of days to register their approval via email to the Secretary. The document should not require extensive discussion, although the Board of Directors may choose to ask specific questions to the document author.

The email will need to clearly specify the approval that is sought.

A document or issue will be considered approved when the majority of the Board of Directors has approved it. As in a Board meeting, the Chairman shall have the casting vote in the event of an evenly split vote. Notice of all decisions taken by e-governance will be reported to the following formal Board or Committee meeting.

5. Membership and Constituencies

5.1. The Trust shall have Members, each of whom shall be a Member of one of the constituencies in paragraph 5.2.

5.2. The constituencies of the Trust shall be:

5.2.1. the Public Constituency; and

5.2.2. the Staff Constituency

6. Application for Membership

6.1. Subject to paragraph 9.1 below, an individual who is eligible to become a Member of the Trust may do so on application to the Trust for membership. Where that application has been accepted by the Trust, that individual shall become a Member of the Trust once his name has been entered as such in the Trust's register of Members.

7. Public Constituency

7.1. An individual who lives (during the relevant time periods specified in Annex 1) 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 (during the relevant time periods specified in Annex 1) in an area specified in Annex 1 as an area for a public constituency are referred to collectively as the public constituency (the "**Public Constituency**").

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

8. Staff Constituency

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

8.1.1. 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 Trust 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 paragraphs 8.1 or 8.2 above are referred to collectively as the Staff Constituency (the "**Staff Constituency**").

8.4. The Staff Constituency shall be divided into descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.

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

9. Automatic Membership by Default – Staff

9.1. An individual who is:

9.1.1. eligible to become a Member of the Staff Constituency; and

9.1.2. invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate 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 and upon his name being entered in the Trust's register of members, unless he informs the Trust that he does not wish to do so.

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 16 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 paragraph 1 – 3 of Annex 5.

11. Annual Members' Meeting

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

11.2. Further provisions about the Annual Members' Meeting are set out in paragraph 1 of Annex 10 – Annual Members' Meeting.

12. Council of Governors – Composition

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

12.2. The elected Governors shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency.

12.3. The composition of the Council of Governors shall be as specified and shall change in accordance with and on the dates set out in Annex 6.

13. Council of Governors – Election of Governors

13.1. Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules, as may be varied from time to time.

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

13.3. A 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 44 of the Constitution.

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

14. Council of Governors – Tenure

14.1. A Governor may hold office for a period of up to three years. The period of office shall be known as the **"Term"**.

14.2. 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.

14.3. An elected or an appointed Governor shall be eligible for re-election or re-appointment as appropriate at the end of his Term and may be re-elected or re-appointed for consecutive Terms provided that a Governor shall not hold office for longer than nine years.

14.4. An appointed Governor shall cease to hold office if the appointing local authority or partnership organisation of that Governor withdraws its appointment of him or if any such appointing body ceases to exist and there is no successor in title to its business.

14.5. For the purposes of this paragraph 14, "year" means:

14.5.1. for Governors appointed or elected with effect from 1 November in any year, the period of 12 months commencing on 1 November and ending on 31 October, and;

14.5.2. for Governors appointed or elected from any date other than 1 November in any year, the period commencing on the date of their election or appointment (as the case may be) and ending on the 31 October after such election or appointment.

15. Council of Governors – Disqualification and Removal

15.1. A Governor may resign from that office at any time during his Term by giving notice in writing to the Company Secretary or the Chairman, such notice is to specify the date of resignation.

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

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

15.2.2. 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; and

15.2.3. a person who within the preceding five years has been convicted in the British Isles 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.

15.2.4. Disclosure and Barring Service checks (or any other checks required by the Trust from time to time as being consistent with its license conditions or good governance arrangements) have not been undertaken concerning that person or that the results received by the Trust are not acceptable in all respects by the Trust.

15.3. Further provisions as to the circumstances in which an individual may not become or continue or be removed as a member of the Council of Governors are set out in paragraph 2 and paragraph 3 of Annex 5.

15.4. Suspension of Governors - In the event of alleged impropriety which, if proven, might compromise that individual's ability to continue as a Governor, the Chairman, on advice of the Director of HR, would be charged with deciding whether the circumstances dictated that suspension was necessary. The Grounds for suspension should be reviewed on at least a monthly basis.

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

16. Council of Governors – Duties of Governors

16.1. The general duties of the Council of Governors are:-

16.1.1. to hold the Non-Executive Directors, individually and collectively, to account for the performance of the Board of Directors, and

16.1.2. to represent the interests of the Members of the Trust as a whole and the interests of the public.

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

16.3. Further provision as to the roles and responsibilities of the Council of Governors is set out in paragraph 1 of Annex 5.

17. Council of Governors – Meetings of Governors

17.1. The Chairman of the Trust (i.e. the Chairman of the Board of Directors appointed in accordance with paragraph 26.1 below) or, in his absence, the Deputy Chairman (i.e. the person appointed in accordance with paragraph 26.1 below) (or if such person is not available another Non-Executive Director) shall preside at meetings of the Council of Governors. If the Chairman, the Deputy Chairman and all Non-Executive Directors are absent, the Lead Governor, if he is present, shall preside. If the Lead Governor is not present, such Governor as the Governors present shall choose

shall preside.

17.2. The Council of Governors shall appoint one of the Governors, who is a member of the Public Constituency, to be the Lead Governor and the Chairman shall liaise with the Lead Governor in relation to the proceedings of the Council of Governors. If the Chairman considers it appropriate (taking into account the matters to be discussed at a meeting of the Council of Governors), the Lead Governor shall preside at such meeting.

17.3. Meetings of the Council of Governors shall be open to members of the public unless the Council of Governors decides otherwise in relation to all or part of the meeting for reasons of commercial confidentiality or on other proper grounds. The Chairman may exclude any person from a meeting of the Council of Governors if that person is interfering with or preventing the proper conduct of the meeting. The Trust will hold a minimum of two public Council of Governors' meetings each year, as well as at least three workshops in private between the Governors and the Board of Directors, such that the total number of meetings between the Governors and Directors of the Trust will be not less than five per annum.

17.4. The Council of Governors with the approval of the Chairman may appoint Committees consisting of its members and other persons including Directors to assist it in carrying out its functions. A Committee appointed under this paragraph may appoint a sub-Committee with the approval of the Chairman.

17.5. The Committees or sub-Committees referred to in paragraph 17.4 above may call upon outside advisers to help them in their tasks.

17.6. 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.

18. Council of Governors – Standing Orders

18.1. The SOs for the practice and procedure of the Council of Governors, as may be varied from time to time, are attached at Annex 6.

19. Council of Governors – Referral to the Panel

19.1. In this paragraph, the panel means a panel of persons appointed by Monitor to which a Governor of a Trust may refer a question as to whether the Trust has failed or is failing—

19.1.1. to act in accordance with its Constitution; or

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

19.2. 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.

20. Council of Governors – Conflicts of Interest of Governors

20.1. If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as he becomes aware of it. The SOs 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.

21. Council of Governors – Travel Expenses

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

22. Council of Governors – Further Provisions

22.1. Further provisions with respect to the Council of Governors are set out in Annex 5.

23. Board of Directors – Composition

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

23.2. The Board of Directors is to comprise:

23.2.1. the Chairman;

23.2.2. at least four other Non-Executive Directors; and

23.2.3. at least four Executive Directors.

such that at any time at least half of the Board of Directors (excluding the Chairman) shall be Non-Executive Directors.

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

23.4. The Chief Executive shall be the Accounting Officer.

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

23.6. One of the Executive Directors is to be a registered medical practitioner (within the meaning of the Medical Act 1983 who holds a licence to practice under that Act) or a registered dentist (within the meaning of the Dentists Act 1984).

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

24. Board of Directors – General Duty

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

25. Board of Directors – Qualification for Appointment as a Non-Executive Director

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

25.1.1. he is a member of the Public Constituency; or

25.1.2. where any of the Trust's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university and he is not disqualified by virtue of paragraph 29 below.

26. Board of Directors – Appointment and Removal of Chairman and Other Non-Executive Directors

26.1. 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.

26.2. Appointment of the Chairman or another Non-Executive Director shall require the approval of a majority of the Council of Governors, present at a meeting of the Council of Governors.

26.3. Removal of the Chairman or another Non-Executive Director shall require the approval of three-

quarters of the members of the Council of Governors.

27. Board of Directors – Appointment of Deputy Chairman and Senior Independent Director

27.1. The Non-Executive Directors shall appoint one of the Non-Executive Directors as a Deputy Chairman and, if the Chairman is unable to discharge his duties, the Deputy Chairman shall act in his place.

27.2. The Board of Directors shall, following consultation with the Lead Governor, appoint one of the Non-Executive Directors as a Senior Independent Director to act in accordance with Monitor's NHS Foundation Trust Code of Governance (as may be amended and replaced from time to time) and the Trust's SOs.

28. Board of Directors – Appointment and Removal of the Chief Executive and Other Executive Directors

28.1. The Chairman and the other Non-Executive Directors shall appoint or remove the Chief Executive.

28.2. The appointment of the Chief Executive shall require the approval of a majority of the Council of Governors present at a meeting of the Council of Governors.

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

29. Board of Directors – Disqualification

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

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

29.1.2. 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; and

29.1.3. a person who within the preceding five years has been convicted in the British Isles 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.

29.1.4. Disclosure and Barring Service checks (or any other checks required by the Trust from time t time as being consistent with its license conditions or good governance arrangements) have not been undertaken concerning that person or that the results received by the Trust are not acceptable in all respects by the Trust.

29.2. Further provisions as to the circumstances in which an individual may not become or continue as a member of the Board of Directors are set out in paragraph 1, Annex 7.

30. Board of Directors – Meetings

30.1. 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, including without limitation, where business involves information that relates to staff or patients or is commercially sensitive.

30.2. 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.

31. Board of Directors –Standing Orders

31.1. The SOs for the practice and procedure of the Board of Directors, as may be varied from time to time, are attached at Annex 8.

32. Board of Directors – Conflicts of Interest of Directors

32.1. The duties that a Director of the Trust has by virtue of being a Director include in particular –

32.1.1. 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.

32.1.2. 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.

32.2. The duty referred to in sub-paragraph 33.1.1 is not infringed if –

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

32.2.2. the matter has been authorised in accordance with the Constitution.

32.3. The duty referred to in sub-paragraph 33.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

32.4. In sub-paragraph 33.1.2, "third party" means a person other than –

32.4.1. the Trust; or

32.4.2. a person acting on its behalf.

32.5. 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.

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

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

32.8. 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.

32.9. A Director need not declare an interest –

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

32.9.2. if, or to the extent that, the Directors are already aware of it;

32.9.3. if, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered –

32.9.3.1. by a meeting of the Board of Directors; or

32.9.3.2. by a Committee of the Directors appointed for the purpose under the Constitution.

32.10. A matter shall be authorised for the purposes of paragraph 33.2.2 if:

32.10.1. the Board of Directors by majority, disapplies the provision of the Constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;

32.10.2. the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

32.10.3. the Director's conflict of interest arises from a permitted cause (as determined by the Board of Directors from time to time).

For the purposes of this paragraph 33.10, a permitted cause may include (without limitation):

32.10.3.1. a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the Trust or any of its subsidiaries; and/or

32.10.3.2. arrangements pursuant to which benefits are made available to employees and Directors or former employees and Directors of the Trust or any of its subsidiaries which do not provide special benefits for Directors or former Directors.

33. Board of Directors – Remuneration and Terms of Office

33.1. 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.

33.2. The Board of Directors 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.

34. Registers

34.1. The Trust shall have:

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

34.1.2. a register of Members of the Council of Governors;

34.1.3. a register of interests of Governors;

34.1.4. a register of Directors; and

34.1.5. a register of interests of the Directors.

35. Removal from the Registers

35.1. The Company Secretary shall remove from the register of Members the name of any Member who ceases to be entitled to be a Member under the provisions of this Constitution.

36. Registers – Inspection and Copies

36.1. The Trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

36.2. The Trust shall not make any part of its registers available for inspection by members of the public which shows details of –

36.2.1. any member of the Patients' Constituency; or

36.2.2. any other member of the Trust, if he so requests.

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

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

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

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

37. Documents Available for Public Inspection

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

37.1.1. a copy of the current Constitution;

37.1.2. a copy of the latest annual accounts and of any report of the Auditor on them; and

37.1.3. a copy of the latest annual report.

37.2. 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:

37.2.1. 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;

37.2.2. a copy of any report laid under section 65D (appointment of Trust Special Administrator) of the 2006 Act;

37.2.3. a copy of any information published under section 65D (appointment of Trust Special Administrator) of the 2006 Act;

37.2.4. a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;

37.2.5. a copy of any statement provided under section 65F(administrator's draft report) of the 2006 Act;

37.2.6. 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;

37.2.7. a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;

37.2.8. a copy of any final report published under section 65I (administrator's final report);

37.2.9. a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and

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

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

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

38. Auditor

38.1. The Trust shall have an Auditor (the "**Auditor**").

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

39. Audit Committee

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

40. Annual Accounts

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

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

40.3. The accounts are to be audited by the Trust's Auditor.

40.4. 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.

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

41. Annual Report, Forward Plans and Non-NHS Work

41.1. The Trust shall prepare an annual report and send it to Monitor.

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

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

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

41.5. Each forward plan must include information about -

41.5.1. 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

41.5.2. the income it expects to receive from doing so.

41.6. Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 41.5.1, the Council of Governors must:

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

41.6.2. notify the Board of Directors of the Trust of its determination.

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

42. Presentation of the Annual Accounts and Reports to the Council of Governors and Members

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

42.1.1. the annual accounts;

42.1.2. any report of the Auditor on them; and

42.1.3. the annual report.

42.2. 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.

42.3. The Trust may combine a meeting of the Council of Governors convened for the purposes of paragraph 42.1 with the Annual Members' Meeting.

43. Instruments

43.1. The Trust shall have a seal.

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

44. Amendment of the Constitution

44.1. The Trust may make amendments of its Constitution only if:

44.1.1. more than half of the members of the Council of Governors of the Trust voting, approve the amendments, and

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

44.2. Amendments made under paragraph 44.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendments have no effect in so far as the Constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

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

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

44.3.2. the Trust must give the Members an opportunity to vote on whether they approve the amendment.

44.4. 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.

44.5. 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.

45. Mergers etc. and Significant Transactions

45.1. 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.

45.2. The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the Trust voting, approve entering into the transaction.

45.3. In paragraph 45.2, the following words have the following meanings:

"significant transaction" means a transaction which meets any one of the tests below:

45.3.1. the fixed asset test; or

45.3.2. the turnover test; or

45.3.3. the gross capital test (relating to acquisitions or divestments).

The fixed asset test:

45.3.4. is met if the assets which are the subject of the transaction exceed 25% of the fixed assets of the Trust;

The turnover test:

45.3.5. is met if, following the completion of the relevant transaction, the gross income of the Trust will increase or decrease by more than 25%;

The gross capital test:

45.3.6. is met if the gross capital of the company or business being acquired or divested represents more than 25% of the capital of the Trust following completion (where "gross capital" is the market value of the relevant company or business's shares and debt securities, plus the excess of current liabilities over current assets, and the Trust's capital is determined by reference to its balance sheet); and

45.3.7. for the purposes of calculating the tests in this paragraph 45.3, figures used to classify assets and profits must be the figures shown in the latest published audited consolidated accounts.

A transaction:

45.3.8. includes all agreements (including amendments to agreements) entered into by the Trust;

45.3.9. excludes a transaction in the ordinary course of business (including the renewal, extension or entering into an agreement in respect of healthcare services carried out by the Trust);

45.3.10. excludes any agreement or changes to healthcare services carried out by the Trust following a reconfiguration of services led by the commissioners of such services; and

45.3.11. excludes any grant of public dividend capital or the entering into of a working capital facility or other loan, which does not involve the acquisition or disposal of any fixed asset of the Trust.

46. Procedures and Protocols

46.1. The Council of Governors and Board of Directors will adopt such procedures and protocols as they may deem to be appropriate for the good governance of the Trust from time to time.

47. Indemnity

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

47.2. The Trust may purchase and maintain for members of the Board of Directors and Council of Governors insurance in respect of Directors' and Officers' liability, including, without limitation, liability arising by reason of the Trust acting as a corporate trustee of an NHS charity.

47.3. Members of the Council of Governors and the Board of Directors and the Secretary who act honestly

and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

48. Charitable Funds

48.1. The Board of Directors shall have a Charitable Funds Committee (the "**Charitable Funds Committee**") responsible for administering charitable funds received by the Trust in accordance with the Annex 8 SO 9.1.

48.2. In carrying out their duties in accordance with paragraph 48.1, the Charitable Funds Committee shall report to the Board of Directors from time to time as the Board of Directors may reasonably require.

ANNEX 1 THE PUBLIC CONSITUENCY

Name of constituency	Number of Governors
Rushmoor	2
Surrey Heath and Runnymede	2
Hart and East Hampshire	2
Guildford, Waverley and Woking	1
Bracknell Forest and Wokingham	2
Slough	2
Windsor and Maidenhead	2
South Bucks	1
Rest of England	1
Total	**15**

NB: For the area to which the above constituencies relate, please refer to the table of catchment area electoral wards and map below.

The catchment areas for the Public Constituency shall be:

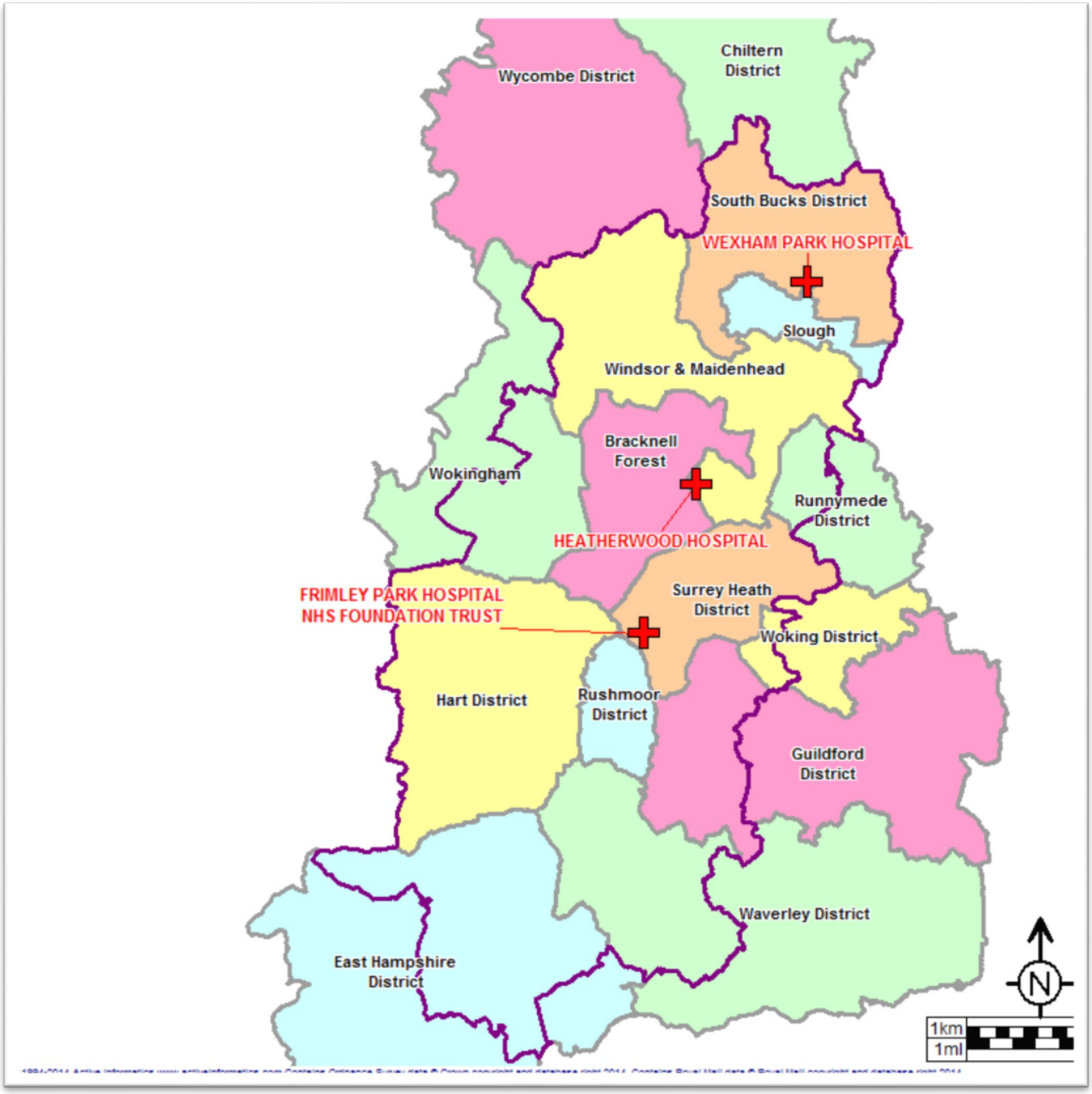
Frimley Health NHS Foundation Trust
Catchments Wards for Public Members

Local Authority	Wards
Rushmoor	Aldershot
	Cherrywood
	Cove and Southwood Ward
	Empress Ward
	Fernhill Ward
	Knellwood Ward
	Manor Park Ward
	North Town Ward
	Rowhill Ward
	St. John's Ward
	St. Mark's Ward
	Wellington Ward
	Westheath Ward
Surrey Heath	Bagshot Ward
	Bisley Ward
	Chobham Ward
	Frimley Ward
	Frimley Green Ward
	Heatherside Ward
	Lightwater Ward
	Mytchett and Deepcut Ward
	Old Dean Ward
	Parkside Ward
	St. Michaels Ward
	St. Pauls Ward
	Town Ward
	Watchetts Ward

	West End Ward
	Windlesham Ward
Runnymede	Englefield Green East Ward
	Englefield Green West Ward
	Virginia Water Ward
Hart	Blackwater and Hawley Ward
	Church Crookham East Ward
	Church Crookham West Ward
	Crondall Ward
	Eversley Ward
	Fleet Central Ward
	Fleet Courtmoor Ward
	Fleet North Ward
	Fleet Pondtail Ward
	Fleet West Ward
	Frogmore and Darby Green Ward
	Hartley Wintney Ward
	Hook Ward
	Long Sutton Ward
	Odiham Ward
	Yateley East Ward
	Yateley North Ward
	Yateley West Ward
East Hampshire	Binsted and Bentley Ward
	Headley Ward
	Holybourne and Froyle Ward
	Lindford Ward
	Selborne Ward
	Whitehill Chase Ward
	Whitehill Deadwater Ward
	Whitehill Hogmoor Ward
	Whitehill Pinewood Ward
	Whitehill Walldown Ward
Guildford	Ash South and Tongham Ward
	Ash Vale Ward
	Ash Wharf Ward
	Normandy Ward
	Pilgrims Ward
	Pirbright Ward
Waverley	Elstead and Thursley Ward
	Farnham Bourne Ward
	Farnham Castle Ward
	Farnham Firgrove Ward
	Farnham Hale and Heath End Ward
	Farnham Moor Park Ward
	Farnham Shortheath and Boundstone Ward
	Farnham Upper Hale Ward
	Farnham Weybourne and Badshot Lea Ward
	Farnham Wrecclesham and Rowledge Ward
	Frensham, Dockenfield and Tilford Ward
	Hindhead Ward

Woking	Brookwood Ward
	Knaphill Ward
Bracknell Forest	Ascot Ward
	Binfield with Warfield Ward
	Bullbrook Ward
	Central Sandhurst Ward
	College Town Ward
	Crown Wood Ward
	Crowthorne Ward
	Great Hollands North Ward
	Great Hollands South Ward
	Hanworth Ward
	Harmans Water Ward
	Little Sandhurst and Wellington Ward
	Old Bracknell Ward
	Owlsmoor Ward
	Priestwood and Garth Ward
	Warfield Harvest Ride Ward
	Wildridings and Central Ward
	Winkfield and Cranbourne Ward
Wokingham	Arborfield Ward
	Barkham Ward
	Emmbrook Ward
	Evendons Ward
	Finchampstead North Ward
	Finchampstead South Ward
	Hurst Ward
	Norreys Ward
	Wescott Ward
	Wokingham Without Ward
Slough	Baylis and Stoke Ward
	Britwell Ward
	Central Ward
	Chalvey Ward
	Cippenham Green Ward
	Cippenham Meadows Ward
	Colnbrook with Poyle Ward
	Farnham Ward
	Foxborough Ward
	Haymill Ward
	Kedermister Ward
	Langley St. Mary's Ward
	Upton Ward
	Wexham Lea Ward
Windsor and Maidenhead	Ascot and Cheapside Ward
	Belmont Ward
	Bisham and Cookham Ward
	Boyn Hill Ward
	Bray Ward
	Castle Without Ward
	Clewer East Ward

	Clewer North Ward
	Clewer South Ward
	Cox Green Ward
	Datchet Ward
	Eton and Castle Ward
	Eton Wick Ward
	Furze Platt Ward
	Horton and Wraysbury Ward
	Hurley and Walthams Ward
	Maidenhead Riverside Ward
	Old Windsor Ward
	Oldfield Ward
	Park Ward
	Pinkneys Green Ward
	Sunningdale Ward
	Sunninghill and South Ascot Ward
South Bucks	Beaconsfield North Ward
	Beaconsfield South Ward
	Beaconsfield West Ward
	Burnham Beeches Ward
	Burnham Church Ward
	Burnham Lent Rise Ward
	Denham North Ward
	Denham South Ward
	Dorney and Burnham South Ward
	Farnham Royal Ward
	Gerrards Cross East and Denham South West Ward
	Gerrards Cross North Ward
	Gerrards Cross South Ward
	Hedgerley and Fulmer Ward
	Iver Heath Ward
	Iver Village and Richings Park Ward
	Stoke Poges Ward
	Taplow Ward
	Wexham and Iver West Ward



Map showing local authority boundaries and constituencies

(Dark purple boundary indicates catchment area for Frimley Health NHS Foundation Trust)

ANNEX 2 THE STAFF CONSTITUENCY

The Staff Constituency shall consist of the following classes of individuals:

Name of Class	Minimum number of Members	Number of Governors
Frimley Park Hospital	400	1
Wexham Park Hospital	400	1
Heatherwood & Community Hospitals	400	1
Total	**1200**	**3**

ANNEX 3 COMPOSITION OF THE COUNCIL OF GOVERNORS

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

1. Composition

1.1 The Council of Governors shall comprise:

- 15 Elected Public Governors
- 3 Elected Staff Governors
- 4 Stakeholder Governors

1.2 The aggregate number of public and patient governors is to be more than half of the total membership of the Council of Governors.

2. Elected Governors

Elected Governors are specified in Annexes 1 and 2.

3. Stakeholder Governors

3.1 The Stakeholder Governors shall comprise:

- 1 representative of Ministry of Defence
- 1 representative of Hampshire County
- 1 representative of Surrey County Council
- 1 representative from Slough, Windsor & Maidenhead, Wokingham & Bracknell Forest Councils

ANNEX 4 MODEL ELECTION RULES

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 particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination forms
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination forms
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 (public and patient constituencies)

Action to be taken before the poll

22. List of eligible voters
23. Notice of poll
24. Issue of voting information by returning officer
25. Ballot paper envelope and covering envelope
26. E-voting systems

The poll

27. Eligibility to vote
28. Voting by persons who require assistance
29. Spoilt ballot papers and spoilt text message votes
30. Lost voting information

31. Issue of replacement voting information
32. ID declaration form for replacement ballot papers (public and patient constituencies)
33. Procedure for remote voting by internet
34. Procedure for remote voting by telephone
35. Procedure for remote voting by text message

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

36. Receipt of voting documents
37. Validity of votes
38. Declaration of identity but no ballot (public and patient constituency)
39. De-duplication of votes
40. Sealing of packets

PART 6 COUNTING THE VOTES

41. Interpretation of Part 6
42. Arrangements for counting of the votes
43. The count
44. Rejected ballot papers and rejected text voting records
45. First stage
46. The quota
47 Transfer of votes
48. Supplementary provisions on transfer
49. Exclusion of candidates
50. Filling of last vacancies
51. Order of election of candidates

PART 7 FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

52. Declaration of result for contested elections
53. Declaration of result for uncontested elections

PART 8 DISPOSAL OF DOCUMENTS

54. Sealing up of documents relating to the poll
55. Delivery of documents
56. Forwarding of documents received after close of the poll
57. Retention and public inspection of documents
58. Application for inspection of certain documents relating to election

PART 9 DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

59. Countermand or abandonment of poll on death of candidate

PART 10 ELECTION EXPENSES AND PUBLICITY

Expenses

60. Election expenses
61. Expenses and payments by candidates
62. Expenses incurred by other persons

Publicity

63. Publicity about election by the corporation
64. Information about candidates for inclusion with voting information
65. Meaning of “for the purposes of an election”
66. Code of Conduct Canvassing

PART 11 QUESTIONING ELECTIONS AND IRREGULARITIES

67. Application to question an election

PART 12 MISCELLANEOUS

68. Secrecy
69. Prohibition of disclosure of vote
70. Disqualification
71. Delay in postal service through industrial action or unforeseen event

PART 1 INTERPRETATION

1. Interpretation

1.1. In these rules, unless the context otherwise requires:

"2006Act" means the National Health Service Act 2006;

"corporation" means the public benefit corporation subject to this constitution;

"council of governors" means the council of governors of the corporation;

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

"election" means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the council of governors;

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

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

"ID declaration form" has the meaning set out in Rule 21.1;

"internet voting record" has the meaning set out in rule 26.4(d);

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

"lead governor" means the governor nominated by the corporation to fulfil the role described in Appendix B to The NHS Foundation Trust Code of Governance (Monitor, December 2013) or any later version of such code;

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

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

"Monitor" means the corporate body known as Monitor as provided by section 61 of the2012 Act;

"numerical voting code" has the meaning set out in rule 64.2(b);

"polling website" has the meaning set out in rule 26.1;

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

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

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

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

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

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

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

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

"voter ID number" means a unique, randomly generated numeric identifier allocated to each voter by the returning officer for the purpose of e-voting;

"voting information" means postal voting information and/or e-voting information.

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

PART 2 TIMETABLE FOR ELECTIONS

2. Timetable

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

Proceeding	Time
Publication of notice of election	Not later than the 40th day before the day of the close of the poll.
Final day for delivery of nomination forms to returning officer	Not later than the 28th day before the day of the close of the poll.
Publication of statement of nominated Candidates	Not later than the 27th day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by candidates from election	Not later than 25th day before the day of the close of the poll.
Notice of the poll	Not later than the 15th day before the day of the close of the poll.
Close of the poll	By 5pm on the final day of the election.

3. Computation of Time

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

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

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

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

PART 3 RETURNING OFFICER

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4. Returning Officer

4.1. Subject to rule 69, the returning officer for an election is to be appointed by the corporation.

4.2. Where two or more elections are to be held concurrently, the same returning officer maybe appointed for all those elections.

5. Staff

5.1. Subject to rule 69, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure

6.1. The corporation is to pay the returning officer:

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

7. Duty of Co-operation

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

PART 4 STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of Election

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

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

9. Nomination of Candidates

9.1. Subject to rule 9.2, each candidate must nominate themselves on a single nomination form.

9.2. The returning officer:

(a) is to supply any member of the corporation with a nomination form; and
(b) is to prepare a nomination form for signature at the request of any member of the corporation;

but it is not necessary for a nomination to be on a form supplied by the returning officer and a nomination can, subject to rule 13, be in an electronic format.

10. Candidate's Particulars

10.1. The nomination form must state the candidate's:

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

11. Declaration of Interests

11.1. The nomination form must state:

(a) any financial interest that the candidate has in the corporation; and
(b) whether the candidate is a member of a political party, and if so, which party;

and if the candidate has no such interests, the paper must include a statement to that effect.

12. Declaration of Eligibility

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

(a) that he or she is not prevented from being a member of the council of governors by paragraph 8

of Schedule 7 of the 2006 Act or by any provision of the constitution; and,

(b) for a member of the public or 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

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

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

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

14. Decisions as to the Validity of Nomination

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

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

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

(a) that the paper is not received on or before the final time and date for return of nomination forms, as specified in the notice of the election;
(b) that the paper does not contain the candidate's particulars, as required by rule 10;
(c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11;
(d) that the paper does not include a declaration of eligibility as required by rule 12; or
(e) that the paper is not signed and dated by the candidate, if required by rule 13.

14.3. The returning officer is to examine each nomination form as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.

14.4. Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination form, stating the reasons for their decision.

14.5. The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate's nomination form. If an email address has been given in the candidate's nomination form (in addition to the candidate's postal address), the returning officer may send notice of the decision to that address.

15. Publication of Statement of Candidates

15.1. The returning officer is to prepare and publish a statement showing the candidates who are standing

for election.

15.2. The statement must show:

(a) the name, contact address (which shall be the candidate's postal address), and constituency or class within a constituency of each candidate standing; and
(b) the declared interests of each candidate standing;

as given in their nomination form.

15.3. The statement must list the candidates standing for election in alphabetical order by surname.

15.4. The returning officer must send a copy of the statement of candidates and copies of the nomination forms to the corporation as soon as is practicable after publishing the statement.

16. Inspection of Statement of Nominated Candidates and Nomination Forms

16.1. The corporation is to make the statement of the candidates and the nomination forms supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.

16.2. If a member of the corporation requests a copy or extract of the statement of candidates or their nomination forms, the corporation is to provide that member with the copy or extract free of charge.

17. Withdrawal of Candidates

17.1. A candidate may withdraw from election on or before the date and time for withdrawal by candidates, by providing to the returning officer a written notice of withdrawal which is signed by the candidate and attested by a witness.

18. Method of Election

18.1. If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the council of governors, a poll is to be taken in accordance with Parts 5 and 6 of these rules.

18.2. If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the council of governors, those candidates are to be declared elected in accordance with Part 7 of these rules.

18.3. If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be council of governors, then:

(a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules; and
(b) the returning officer 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

19.1. The votes at the poll must be given by secret ballot.

19.2. The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.

19.3. The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 19.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.

19.4. The corporation may decide that voters within a constituency or class within a constituency for whom an email address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.

19.5. Before the corporation decides, in accordance with rule 19.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:

(a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:

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

(b) if telephone voting is to be a method of polling, the telephone voting system to be used for the purpose of the election is:

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

(c) if text message voting is to be a method of polling, the text message voting system to be used for the purpose of the election is:

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

20. The Ballot Paper

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

20.2. Every ballot paper must specify:

(a) the name of the corporation;
(b) the constituency, or class within a constituency, for which the election is being held;
(c) the number of members of the council of governors to be elected from that constituency, or

class within that constituency;

(d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates;

(e) instructions on how to vote by all available methods of polling, including the relevant voter's voter ID number if one or more e-voting methods of polling are available;

(f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll; and

(g) the contact details of the returning officer.

20.3. Each ballot paper must have a unique identifier.

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

21. The Declaration of Identity Public and Patient Constituencies

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

(a) that the voter is the person:

(i) to whom the ballot paper was addressed; and/or

(ii) to whom the voter ID number contained within the e-voting information was allocated;

(b) that he or she has not marked or returned any other voting information in the election; and

(c) the particulars of his or her qualification to vote as a member of the constituency or class within the constituency for which the election is being held;

("declaration of identity")

and the corporation shall make such arrangements as it considers appropriate to facilitate the making and the return of a declaration of identity by each voter, whether by the completion of a paper form ("ID declaration form") or the use of an electronic method.

21.2. The voter must be required to return his or her declaration of identity with his or her ballot.

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

Action to be Taken Before the Poll

22. List of Eligible Voters

22.1. The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 27 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

22.2. The list is to include, for each member:

(a) a postal address; and,

(b) the member's email address, if this has been provided;

to which his or her voting information may, subject to rule 22.3, be sent.

22.3. The corporation may decide that the e-voting information is to be sent only by email to those members in the list of eligible voters for whom an email address is included in that list.

23. Notice of Poll

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

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

24. Issue of Voting Information by Returning Officer

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

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

("postal voting information").

24.2. Subject to rules 24.3 and 24.4, as soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following information by email and/or by post to each member of the corporation named in the list of eligible voters whom the corporation determines in accordance with rule 19.3 and/or rule 19.4 may cast his or her vote by an e-voting method of polling:

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

("e-voting information").

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

(a) only be sent postal voting information; or
(b) only be sent e-voting information; or
(c) be sent both postal voting information and e-voting information;

for the purposes of the poll.

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

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

25. Ballot Paper Envelope and Covering Envelope

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

25.2. The covering envelope is to have:

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

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

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

26. E-Voting Systems

26.1. If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as "the polling website").

26.2. If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as "the telephone voting facility").

26.3. If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as "the text message voting facility").

26.4. The returning officer shall ensure that the polling website and internet voting system provided will:

(a) require a voter to:

(i) enter his or her voter ID number; and
(ii) where the election is for a public or patient constituency, make a declaration of identity;

in order to be able to cast his or her vote;

(b) specify:

(i) the name of the corporation;
(ii) the constituency, or class within a constituency, for which the election is being held;
(iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency;
(iv) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates;
(v) instructions on how to vote and how to make a declaration of identity;
(vi) the date and time of the close of the poll; and
(vii) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
(d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of:

(i) the voter's voter ID number;
(ii) the voter's declaration of identity (where required);
(iii) the candidate or candidates for whom the voter has voted; and
(iv) the date and time of the voter's vote;

(e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this; and
(f) prevent any voter from voting after the close of poll.

26.5. The returning officer shall ensure that the telephone voting facility and telephone voting system provided will:

(a) require a voter to:

(i) enter his or her voter ID number in order to be able to cast his or her vote; and
(ii) where the election is for a public or patient constituency, make a declaration of identity;

(b) specify:

(i) the name of the corporation;
(ii) the constituency, or class within a constituency, for which the election is being held;
(iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency;
(iv) instructions on how to vote and how to make a declaration of identity;
(v) the date and time of the close of the poll; and
(vi) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
(d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:

(i) the voter's voter ID number;
(ii) the voter's declaration of identity (where required);

(iii) the candidate or candidates for whom the voter has voted; and
(iv) the date and time of the voter's vote;

(e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
(f) prevent any voter from voting after the close of poll.

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

(a) require a voter to:

(i) provide his or her voter ID number; and
(ii) where the election is for a public or patient constituency, make a declaration of identity;

in order to be able to cast his or her vote;

(b) prevent a voter from voting for more candidates than he or she is entitled to at the election;
(c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:

(i) the voter's voter ID number;
(ii) the voter's declaration of identity (where required);
(iii) the candidate or candidates for whom the voter has voted; and
(iv) the date and time of the voter's vote;

(d) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
(e) prevent any voter from voting after the close of poll.

The Poll

27. Eligibility to Vote

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

28. Voting by Persons who Require Assistance

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

28.2. Where the returning officer receives a request from a voter who requires assistance to vote, the returning officer is to make such arrangements as he or she considers necessary to enable that voter to vote.

29. Spoilt Ballot Papers and Spoilt Text Message Votes

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

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

29.3. 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 completed ID declaration form, if required, has not been returned.

29.4. After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter 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.

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

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

29.7. The returning officer may not issue a replacement voter ID number in respect of a spoilt text message vote unless he or she is satisfied as to the voter's identity.

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

(a) the name of the voter; and
(b) the details of the voter ID number on the spoilt text message vote (if that officer was able to obtain it); and
(c) the details of the replacement voter ID number issued to the voter.

30. Lost Voting Information

30.1. Where a voter has not received his or her voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.

30.2. The returning officer may not issue replacement voting information in respect of lost voting information unless 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 voting information;
(c) has ensured that no declaration of identity, if required, has been returned.

30.3. After issuing replacement voting information in respect of lost voting information, the returning officer shall enter in a list ("the list of lost ballot documents"):

(a) the name of the voter;
(b) the details of the unique identifier of the replacement ballot paper, if applicable; and
(c) the voter ID number of the voter.

31. Issue of Replacement Voting Information

31.1. If a person applies for replacement voting information under rule 29 or 30 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 29.3 or 30.2, 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.

31.2. After issuing replacement voting information under this rule, the returning officer shall enter in a list ("the list of tendered voting information"):

(a) the name of the voter;
(b) the unique identifier of any replacement ballot paper issued under this rule;
(c) the voter ID number of the voter.

32. ID Declaration Form for Replacement Ballot Papers (Public and Patient Constituencies)

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

Polling by Internet, Telephone or Text

33. Procedure for Remote Voting by Internet

33.1. To cast his or her vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.

33.2. When prompted to do so, the voter will need to enter his or her voter ID number.

33.3. If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election in which the voter is eligible to vote.

33.4. To cast his or her vote, the voter will need to key in a mark on the screen opposite the particulars of the candidate or candidates for whom he or she wishes to cast his or her vote.

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

34. Voting Procedure for Remote Voting by Telephone

34.1. To cast his or her vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.

34.2. When prompted to do so, the voter will need to enter his or her voter ID number using the keypad.

34.3. If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.

34.4. When prompted to do so the voter may then cast his or her vote by keying in the numerical voting code of the candidate or candidates, for whom he or she wishes to vote.

34.5. The voter will not be able to access the telephone voting facility for an election once his or her vote at that election has been cast.

35. Voting Procedure for Remote Voting by Text Message

35.1. To cast his or her vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.

35.2. The text message sent by the voter must contain his or her voter ID number and the numerical voting code for the candidate or candidates, for whom he or she wishes to vote.

35.3. The text message sent by the voter will need to be structured in accordance with the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

Procedure for Receipt of Envelopes, Internet Votes, Telephone Votes and Text Message Votes

36. Receipt of Voting Documents

36.1. Where the returning officer receives:

(a) a covering envelope; or
(b) any other envelope containing an ID declaration form if required, a ballot paper envelope, or a ballot paper;

before the close of the poll, that officer is to open it as soon as is practicable; and rules 37 and 38 are to apply.

36.2. The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 37 and 38, but must make arrangements to ensure that no person obtains or communicates information as to:

(a) the candidate for whom a voter has voted; or
(b) the unique identifier on a ballot paper.

36.3. The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

37. Validity of Votes

37.1. A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.

37.2. Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:

(a) put the ID declaration form if required in a separate packet; and
(b) put the ballot paper aside for counting after the close of the poll.

37.3. Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:

(a) mark the ballot paper "disqualified";

(b) if there is an ID declaration form accompanying the ballot paper, mark it "disqualified" and attach it to the ballot paper;
(c) record the unique identifier on the ballot paper in a list of disqualified documents (the "list of disqualified documents"); and
(d) place the document or documents in a separate packet.

37.4. An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.

37.5. Where the returning officer is satisfied that rule 37.4 has been fulfilled, he or she is to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.

37.6. Where the returning officer is not satisfied that rule 37.4 has been fulfilled, he or she is to:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) "disqualified";
(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents; and
(c) place the document or documents in a separate packet.

38. Declaration of Identity but No Ballot Paper (Public and Patient Constituency)

38.1. Where the returning officer receives an ID declaration form if required but no ballot paper, the returning officer is to:

(a) mark the ID declaration form "disqualified";
(b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and
(c) place the ID declaration form in a separate packet.

39. De-duplication of Votes

39.1. Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.

39.2. If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:

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

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

(a) mark the ballot paper "disqualified";
(b) if there is an ID declaration form accompanying the ballot paper, mark it "disqualified" and attach it to the ballot paper;
(c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;

(d) place the document or documents in a separate packet; and
(e) disregard the ballot paper when counting the votes in accordance with these rules.

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

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

40. Sealing of Packets

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

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

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

PART 6 COUNTING THE VOTES

41. Interpretation of Part 6

41.1. In Part 6 of these rules:

"ballot document" means a ballot paper, internet voting record, telephone voting record or text voting record;

"continuing candidate" means any candidate not deemed to be elected, and not excluded;

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

"deemed to be elected" means deemed to be elected for the purposes of counting of votes but without prejudice to the declaration of the result of the poll;

"mark" means a figure, an identifiable written word, or a mark such as "X";

"non-transferable vote" means a ballot document:

(a) on which no second or subsequent preference is recorded for a continuing candidate; or
(b) which is excluded by the returning officer under rule 49;

"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 46;

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

"stage of the count" means:

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

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

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

"transfer value" means the value of a transferred vote calculated in accordance with rules 47.4 or 47.7.

42. Arrangements for Counting of the Votes

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

42.2. The returning officer may make arrangements for any votes to be counted using vote counting software where:

(a) the board of directors and the council of governors of the corporation have approved:

(i) the use of such software for the purpose of counting votes in the relevant election; and
(ii) a policy governing the use of such software; and

(b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. The Count

43.1. The returning officer is to:

(a) count and record the number of:

(iii) ballot papers that have been returned; and
(iv) the number of internet voting records, telephone voting records and/or text voting records that have been created; and

(b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(ii) where vote counting software is being used.

43.2. The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.

43.3. The returning officer is to proceed continuously with counting the votes as far as is practicable.

44. Rejected Ballot Papers and Rejected Text Voting Records

44.1. 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.

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

44.3. Any text voting record:

(a) on which the figure "1" standing alone is not placed so as to indicate a first preference for any candidate;

(b) on which anything is written or marked by which the voter can be identified except the unique identifier; or

(c) which is unmarked or rejected because of uncertainty;

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

44.4. The returning officer is to endorse the word "rejected" on any text voting record which under this rule is not to be counted.

44.5. 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 rule 44.1 and the number of text voting records rejected by him or her under each of the sub-paragraphs (a) to (c) of rule 44.3.

45. First Stage

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

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

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

46. The Quota

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

46.2. The result, increased by one, of the division under rule 46.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as "the quota").

46.3. At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules 47.1 to 47.3 has been complied with.

47. Transfer of Votes

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

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

47.2. The returning officer is to count the number of ballot documents in each parcel referred to in rule 47.1.

47.3. The returning officer is, in accordance with this rule and rule 48, to transfer each sub-parcel of ballot documents referred to in rule 47.1 (a) to the candidate for whom the next available preference is given on those ballot documents.

47.4. The vote on each ballot document transferred under rule 47.3 shall be at a value ("the transfer value") which:

(a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus; and
(b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot documents on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

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

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

47.6. The returning officer is, in accordance with this rule and rule 48, to transfer each sub-parcel of ballot documents referred to in rule 47.5(a) to the candidate for whom the next available preference is given on those ballot documents.

47.7. The vote on each ballot document transferred under rule 47.6 shall be at:

(a) a transfer value calculated as set out in rule 47.4(b); or
(b) at the value at which that vote was received by the candidate from whom it is now being transferred;

whichever is the less.

47.8. Each transfer of a surplus constitutes a stage in the count.

47.9. Subject to rule 47.10, the returning officer shall proceed to transfer transferable ballot documents until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

47.10. Transferable ballot documents shall not be liable to be transferred where any surplus or surpluses

which, at a particular stage of the count, have not already been transferred, are:

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

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

48. Supplementary Provisions on Transfer

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

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

48.2. The returning officer shall, on each transfer of transferable ballot documents under rule47:

(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.

48.3. All ballot documents transferred under rule 47 or 49 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that ballot document or, as the case may be, all the ballot documents in that sub-parcel.

48.4. Where a ballot document is so marked that it is unclear to the returning officer at any stage of the count under rule 47 or 49 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot document as a non-transferable vote; and votes on a ballot document shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

49. Exclusion of Candidates

49.1. If:

(a) all transferable ballot documents which under the provisions of rule 47 (including that rule as applied by rule 49.11) and this rule are required to be transferred, have been transferred; and

(b) subject to rule 50, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where rule 49.12 applies, the candidates with the then lowest votes).

49.2. The returning officer shall sort all the ballot documents on which first preference votes are given for the candidate or candidates excluded under rule 49.1 into two sub-parcels so that they are grouped as:

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

49.3. The returning officer shall, in accordance with this rule and rule 48, transfer each sub-parcel of ballot documents referred to in rule 49.2 to the candidate for whom the next available preference is given on those ballot documents.

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

49.5. If, subject to rule 50, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable ballot documents, if any, which had been transferred to any candidate excluded under rule 49.1 into sub- parcels according to their transfer value.

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

49.7. The vote on each transferable ballot document transferred under rule 49.6 shall be at the value at which that vote was received by the candidate excluded under rule 49.1.

49.8. Any ballot documents on which no next available preferences have been expressed shall be set aside as non-transferable votes.

49.9. After the returning officer has completed the transfer of the ballot documents in the sub-parcel of ballot documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under rule49.1.

49.10. 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.

49.11. If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules 47.5 to 47.10 and rule 48.

49.12. 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.

49.13. 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.

50. Filling of Last Vacancies

50.1. 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.

50.2. 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.

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

51. Order of Election of Candidates

51.1. 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 47.10.

51.2. 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 or she obtained the quota.

51.3. 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.

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

PART 7 FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

52. Declaration of Result for Contested Elections

52.1. 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 Trust by section 33(4) of the 2006 Act, to the chair of the NHS trust; or
(ii) in any other case, to the chair of the corporation; and

(c) give public notice of the name of each candidate who he or she has declared elected.

52.2. 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 44.1;
(f) the number of rejected text voting records under each of the headings in rule 44.3;

available on request.

53. Declaration of Result for Uncontested Elections

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

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

PART 8 DISPOSAL OF DOCUMENTS

54. Sealing Up of Documents Relating to the Poll

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

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

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

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

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

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

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

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

55. Delivery of Documents

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

56. Forwarding of Documents Received After Close of the Poll

56.1. Where:

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

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

57. Retention and Public Inspection of Documents

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

57.2. With the exception of the documents listed in rule 58.1, the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

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

58. Application for Inspection of Certain Documents Relating to an Election

58.1. The corporation may not allow:

(a) the inspection of, or the opening of any sealed packet containing:

(i) any rejected ballot papers, including ballot papers rejected in part;
(ii) any rejected text voting records, including text voting records rejected in part;
(iii) any disqualified documents, or the list of disqualified documents;
(iv) any counted ballot papers, internet voting records, telephone voting records or text voting records; or
(v) the list of eligible voters; or

(b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage;

by any person without the consent of the board of directors of the corporation.

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

58.3. The board of directors of the corporation's consent may be on any terms or conditions that it thinks necessary, including conditions as to -

(a) persons;
(b) time;
(c) place and mode of inspection;
(d) production or opening;

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

58.4. On an application to inspect any of the documents listed in rule 58.1 the board of directors of the corporation must:

(a) in giving its consent; and
(b) in making the documents available for inspection;

ensure that the way in which the vote of any particular member has been given shall not be

disclosed, until it has been established:

(i) that his or her vote was given; and
(ii) that Monitor has declared that the vote was invalid.

PART 9 DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

59. Countermand or Abandonment of Poll on Death of Candidate

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

(a) publish a notice stating that the candidate has died; and
(b) proceed with the counting of the votes as if that candidate had been excluded from the count so that:

(i) ballot documents which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted; and
(ii) ballot documents which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

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

PART 10 ELECTION EXPENSES AND PUBLICITY

60. Election Expenses

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

61. Expenses and Payments by Candidates

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

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

62. Election Expenses Incurred by Other Persons

62.1. No person may:

(a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise; or
(b) give a candidate or 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.

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

Publicity

63. Publicity about Election by the Corporation

63.1. The corporation may:

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

as it considers necessary.

63.2. Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 64, must be:

(a) objective, balanced and fair;
(b) equivalent in size and content for all candidates;
(c) compiled and distributed in consultation with all of the candidates standing for election; and
(d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

63.3. Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and

holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

64. Information about Candidates for Inclusion with Voting Information

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

64.2. The information must consist of:

(a) a statement submitted by the candidate of no more than 250 words;

(b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility ("numerical voting code"); and

(c) a photograph of the candidate.

65. Meaning of "For the Purposes of an Election"

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

65.2. The provision by any individual of 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.

66. Code of Practice Canvassing

66.1. Candidates standing for election must agree to be bound by the Canvassing Code of Practice at Annex 4A.

PART 11 QUESTIONING ELECTIONS AND THE CONSEQUENCE OF IRREGULARITIES

67. Application to Question an Election

67.1. An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to Monitor.

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

67.3. An application may only be made to Monitor 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.

67.4. The application must:

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

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

67.6. If Monitor requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

67.7. Monitor shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.

67.8. The determination by the person or panel of persons nominated in accordance with rule 66.7 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.

67.9. Monitor may prescribe rules of procedure for the determination of an application including costs.

PART 12 MISCELLANEOUS

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68. Secrecy

68.1. The following persons:

(a) the returning officer; and
(b) the returning officer's staff;

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

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

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

68.3. 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.

69. Prohibition of Disclosure of Vote

69.1. No person who has voted at an election shall, in any legal or other proceedings to question the election, be required to state for whom he or she has voted.

70. Disqualification

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

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

71. Delay in Postal Service Through Industrial Action or Unforeseen Event

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

(a) the delivery of the documents in rule 24; or
(b) the return of the ballot paper;

the returning officer may extend the time between the publication of the notice of the poll and the close of the poll by such period as he or she considers appropriate.

ANNEX 4A
CANVASSING - CODE OF PRACTICE

1. In the conduct of Trust elections and the interpretation of this Code of Practice, the Returning Officer's decision shall be final.

2. Each candidate shall complete a statement of no more than 250 words in a form determined from time to time by the Returning Officer. The Returning Officer shall arrange for the information so supplied, together with a recent photograph, to be published in a booklet comprising the details of all candidates in the Council of Governors elections and circulated in accordance with the Election Rules

3. No canvassing is permitted on Trust premises. No literature beyond that specified in 2 above may be distributed on the property; this includes Trust electronic bulletin boards.

4. The Trust may arrange for hustings events for candidates to meet the members. These will provide an opportunity for candidates to explain their rationale for standing for election.

5. Candidates, or those acting on behalf of candidates, may not publish or circulate letters or other publications, via third parties or at all, to Members or others in support of their candidature.

6. Neither the Trust Board nor the Council of Governors may publicly endorse a candidate.

7. Any breach of this Code of Practice will render a candidate liable to disqualification from the election by the Returning Officer.

ANNEX 5
ADDITIONAL PROVISIONS - COUNCIL OF GOVERNORS

1. Roles and Responsibilities of the Council of Governors

1.1. The roles and responsibilities of the Council of Governors at a general meeting (which may be the Trust's annual general meeting), which are to be carried out in accordance with this Constitution, the Trust's Authorisation and Monitor's Code of Governance, are :

(a) subject to paragraph 26 of this Constitution, to appoint or remove the Chairman and the other Non-Executive Directors;

(b) to decide the remuneration and allowances, and other terms and conditions of office, of the Non-Executive Directors;

(c) to appoint or remove the Auditor;

(d) to consider and be presented with the annual accounts, any report of the Auditor on them and the annual report;

(e) approve (by a majority of the Council of Governors voting in favour) an appointment by the Non-Executive Directors, of the Chief Executive and Accounting Officer; and

(f) to give the views of the Council of Governors to the directors for the purposes of the preparation by the Board of Directors of the forward planning in respect of each financial year (the Annual Plan to be given to Monitor).

1.2. Paragraph 16 of the constitution sets out provisions as to the duties of the Council of Governors.

2. Disqualification

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

(a) a person as referred to in paragraph 15.2 of the constitution;

(b) a director of the Trust or a director of an NHS trust or another foundation trust;

(c) a spouse, partner, parent or child of a member of the Board of Directors of the Trust;

(d) being a Member of the Public Constituency, a person who refuses to sign a declaration in the form specified by the Company Secretary of particulars of their qualification to vote as a Member of the Trust and that they are not prevented from being a member of the Council of Governors;

(e) a vexatious complainant as determined in accordance with the Trust's complaints procedure;

(f) a person who is required to notify the police of his name and address as a result of being convicted or cautioned for relevant sex offences pursuant to the Sexual Offences Act 2003 or other relevant legislation;

(g) a person who has been disqualified from being a member of a relevant authority under the provisions of the Local Government Act 2000;

(h) a person who, on the basis of disclosures obtained through an application to the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012, (or any other checks required by the Trust from time to time as being consistent with its licence conditions or mandatory or nationally recommended good governance arrangements), they are not considered suitable by the Trust's Director responsible for human resources;

(i) a person who within the preceding two years has been dismissed from any paid employment with the Trust or with a health service body, otherwise than by reason of redundancy or incapacity/incapability caused by sickness;

(j) a person whose tenure of office as the Chairman or as a member or director of a health service body has been terminated on the grounds that his appointment is not in the interests of the health service, or for non-attendance at meetings, or for nondisclosure of a pecuniary interest;

(k) a person who has refused without reasonable cause to undertake any training (including any workshop) which the Trust requires all governors to undertake;

(l) a person who has failed to sign and deliver to the Company Secretary a statement in the form required by the Company Secretary confirming acceptance of the code of conduct for the Council of Governors;

(m) a person who has had his name removed or been suspended from any list prepared under the 2006 Act or under any related subordinate legislation or who has otherwise been suspended or disqualified from any healthcare profession, and has not subsequently had his name included in such a list or had his suspension lifted or qualification reinstated;

(n) a person who has failed to pay monies properly due to the Trust; or

(o) a person who is the subject of a disqualification order made under the Company Directors Disqualification Act 1986.

2.2. If a person has been elected or appointed to be a Governor and he becomes disqualified or is removed from office, the Company Secretary shall immediately declare that the person in question is disqualified and notify him in writing to that effect.

2.3. Upon despatch of any such notification, that person's tenure of office shall be terminated and he shall cease to act as a Governor; and the Company Secretary shall inform the Chairman of the actions taken in respect of the person in question and the reasons for such action.

3. Removal

3.1. A Governor may be removed from the Council of Governors by a resolution approved by the majority of the remaining Governors present at the meeting on the grounds that:

(a) he has committed a serious breach of the code of conduct; or

(b) he has acted in a manner detrimental to the interests of the Trust; or

(c) he has a regular non-attendance record without a good reason for it, in which case it will be dealt with by the Chairman in the first instance. If the Chairman considers it is not in the best interest of the Trust for him to continue as a Governor, this will be brought to a Council of Governors meeting for resolution.

4. Vacancies

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

(a) where the vacancy arises amongst the appointed Governors, the Company Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office; and

(b) where the vacancy arises amongst the elected Governors, the Council of Governors may:

(i) call an election within three months to fill the seat for the remainder of that term of office;

(ii) invite the next highest polling candidate, provided that that candidate received at least 10% of the vote in the last election (such 10% being calculated taking into account first preference votes cast under the transferable vote system set out in Annex 4), for that seat at the most recent election, who is willing to take office, to fill the vacant seat until the next election, at which time the seat will fall vacant and be subject to election for any unexpired period of the term of office; or

(iii) if the unexpired period of the term of office is less than nine months (or such other period as the Council of Governors may from time to time determine by majority vote), leave the seat vacant until the next elections are held.

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

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1. INTRODUCTION

Regulatory Framework

1.1. Frimley Health NHS Foundation Trust (the "**Trust**") is a public benefit trust, which was established on 1 April 2005 under the Health and Social Care (Community Health and Standards) Act 2003 which has now been replaced by the2006 Act (as amended by the 2012 Act).

1.2. The principal places of business of the Trust are Frimley Park Hospital, Frimley, Camberley, Surrey, Heatherwood Hospital, Ascot, Berkshire, and Wexham Park Hospital, Slough, Buckinghamshire.

1.3. The Trust is governed by the 2006 Act, by its Constitution and by its terms of Authorisation granted by Monitor.

2. THE COUNCIL OF GOVERNORS

2.1. **Composition of the Council –** in accordance with the Constitution, the composition of the Council of Governors of the Trust shall be:

2.1.1. 15 public Governors;

2.1.2. three staff Governors; and

2.1.3. four stakeholder Governors including:

a) three local authority Governors; and

b) one partnership (ministry of defence) Governor.

as appointed by the relevant stakeholder body or its successor organisation.

2.2. The Chief Executive or any other Director or a representative of the Trust's Auditors or other advisors can attend a meeting of the Council of Governors unless the Council of Governors agrees otherwise.

2.3. **Role of the Public Governors** - One of the duties of the public Governors is to facilitate communication between the Board of Directors and the Members of the Trust.

2.4. **Role of the Chairman** - The Chairman is not a member of the Council of Governors. However, he presides at meetings of the Council of Governors and has a casting vote.

2.5. **Role and appointment of the Lead Governor** - For the purpose of facilitating liaison between the Board of Directors and the Council of Governors, the Council of Governors shall appoint one of the public Governors of the Trust to be the Lead Governor for a term of three years, not exceeding the remainder of his term as Governor of the Trust. If a Governor was appointed as Lead Governor with less than three years of their term of office remaining, and they did not get re-elected, a new Lead Governor appointment process would be undertaken. As such, Governors would be able to put themselves forward at any stage of their term of office. A Lead Governor can hold a maximum of two terms of office, equating to six years. In terms of voting methodology for the appointment, 'first past the post' will be used with the Governor receiving the most votes appointed to the role, unless in the event of more than two candidates standing for this election a preferential vote will be employed.

2.6. A Governor seeking election as Lead Governor will be required to submit a written statement to the Company Secretary in support of their candidature by a specific deadline. The statement must not be in excess of 300 words. Statements will be circulated to all Governors by the Company Secretary by email following the expiry of the deadline for submission. Governors shall be provided with a deadline to register an electronic vote by email. The Company Secretary shall act as the Returning Officer in respect of the election.

3. MEETINGS OF THE COUNCIL OF GOVERNORS

3.1. **Admission to the public** - the meetings of the Council of Governors shall be open to members of the public except when the Council of Governors resolves:

3.1.1. that members of the public be excluded from the remainder of the meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public; and/or

3.1.2. that in the interests of public order, the meeting adjourns for a period to be specified in such resolution to enable the Council of Governors to complete business without the presence of the public.

3.2. Nothing in these SOs shall require the Council of Governors to allow members of the public or 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 Council of Governors.

3.3. **Calling meetings** - ordinary meetings of the Council of Governors shall be held at such times and places as the Council of Governors may determine and there will be no fewer than two meetings per year. The Company Secretary will publish times and locations of the meetings for the year two months in advance.

3.4. Meetings of the Council of Governors may be called by the Company Secretary, or by the Chairman, or by six Governors who give written notice to the Company Secretary specifying the business to be carried out. The Company Secretary will send (by appropriate means including, without limitation, by email or post, or via the Trust's website) the dates, times and locations of meetings of the Council of Governor meetings to all Governors as soon as possible after receipt of such a request. Other, or emergency, meetings of the Council of Governors may be called (by appropriate means including, without limitation, by email or post, or via the Trust's website) in accordance with the Constitution. The Company Secretary shall call a meeting on at least 14 but not more than 28 days' notice to discuss the specified business. If the Company Secretary fails to call such a meeting then the Chairman or six Governors, whichever is the case, shall call such a meeting. Notice will also be published on the Trust's website and at the main entrances to Frimley Park Hospital, Heatherwood Hospital and Wexham Park Hospital.

3.5. Subject to SO 3.6 below, lack of service of the notice of the business of the meeting on any Governor shall not affect the validity of a meeting.

3.6. Failure to serve such a notice specifying the business on more than one-third of publicly elected Governors will invalidate the meeting. A notice will be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post or, where the notice is sent by email, at the time at which the email is sent.

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

3.8. **Agenda of meetings** - Before each meeting of the Council of Governors, an agenda of the meeting specifying the business proposed to be transacted at it and any supporting papers shall be delivered to each Governor, or sent by post to the usual place of residence of the Governor, so as to be available to him at least three clear days before the meeting.

3.9. **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.

3.10. A Governor desiring a matter to be included on an agenda shall make his request in writing to the

Chairman at least 15 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 15 days before a meeting may be included on the agenda at the discretion of the Chairman.

3.11. There will not be an agenda item entitled 'Any Other Business'. See SO 3.10 for inclusion of agenda items.

3.12. **Chairman of the meeting** - At any meeting of the Council of Governors, the Chairman, if present, shall preside. If the Chairman considers it appropriate (taking into account the matters to be discussed at a meeting of the Council of Governors), the Lead Governor shall preside at such meeting. If the Chairman is absent from the meeting, the Deputy Chairman or another Non-Executive Director, if there is one and he is present, shall preside. If the Chairman, the Deputy Chairman and all Non-Executive Directors are absent, the Lead Governor, if he is present, shall preside. If the Lead Governor is not present, such Governor as the Council of Governors present shall choose shall preside.

3.13. **Emergency powers** - The Council of Governors' powers may in emergency be exercised by the Chairman (or in his absence the Deputy Chairman and if the Deputy Chairman is absent, any other Non-Executive Director) together with at least one-third of the publicly elected Governors. The exercise of such powers shall be reported to the next formal meeting of the Council of Governors for ratification.

3.14. **Notices of Motion** - A Governor 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. This SO shall not prevent any Motion being moved during the meeting without notice on any business mentioned on the agenda, except that the acceptance of such a Motion for inclusion on the agenda will be at the discretion of the Chairman.

3.15. **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 the consent of the Chairman.

3.16. **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 Governor who gives it and also the signature of four other Governors. When any such Motion has been disposed of by the Council of Governors, it shall not be competent for any Governor to propose a Motion to the same effect within six months; however the Chairman may do so if he considers it appropriate.

3.17. **Motions** - The mover of a Motion shall have a right of reply at the close of any discussion on the Motion or any amendment thereto.

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

3.18.1. an amendment to the Motion;

3.18.2. the adjournment of the discussion or the meeting;

3.18.3. that the meeting proceed to the next business (*);

3.18.4. the appointment of an ad hoc Committee to deal with a specific item of business; or

3.18.5. that the Motion be now put (*)

3.18.6. provided that in the case of sub-paragraphs denoted by (*) above and to ensure objectivity, Motions may only be put by a Governor who has not previously taken Part in

the debate.

3.19. No amendment to the Motion shall be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the Motion.

3.20. **Chairman's ruling** - Statements of Governors made at meetings of the Council of Governors shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be final.

3.21. **Voting** – Except (i) as set out in SO 5.4 in relation to meetings of Committees and sub-Committees only, (ii) in relation to matters to be voted on pursuant to paragraph 44 of this Constitution, in relation to which participation and voting by telephone, teleconference, video or computer link shall be permitted, questions arising at a meeting of the Council of Governors shall be decided by a show of hands. A paper ballot may also be used if a majority of the Governors present so request, in which case any person attending by telephone, teleconference, video or computer link shall cast their vote verbally (such verbal vote to be recorded in the minutes).

3.21.1 **E-Governance** –

(a) Where agreed by the Chairman, Council of Governors and Governor Committee, decisions may be made by way of E-Governance.

(b) The document in need of review should be sent via e-mail and Council/Committee members should have a specified number of days to register their approval via e-mail to the Secretary. The document should not require extensive discussion, although Council members may choose to ask specific questions to the document author. The document will require a cover sheet, clearly specifying the approval that is sought.

(c) A document will be considered approved when a majority of the Council of Governors or Committee members have approved the document. As in a Board meeting, the Chairman shall have the casting vote in the event of an evenly split vote. Notice of all decisions taken by E-Governance will be reported to the following formal Council or Committee meeting at which point they are confirmed.

3.22. If at least one-third of the Governors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Governor present voted or abstained.

3.23. If a Governor so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).

3.24. Except as set out in SO 5.4 in relation to meetings of Committees and sub-Committees only, in no circumstances may an absent Governor vote by proxy. Absence is defined as being absent at the time of the vote.

3.25. **Written resolutions -** Where the Chairman or a Governor desires that a resolution is passed by the Council of Governors (or any Committee or sub-Committee of the Council of Governors), the Chairman or the Governor (with the consent of the Chairman) may circulate the resolution amongst the Council of Governors (or such members of the relevant Committee or sub-Committee as the case may be) proposing that it is passed as a written resolution, for the resolution to be validly passed, the majority of all the Governors (or such members of the relevant Committee or sub-Committee as the case may be) must sign the resolution. Any written resolution that is so passed shall be noted at the next meeting of the Council of Governors.

3.26. **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.

3.27. 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 next meeting.

3.28. Minutes shall be circulated in accordance with Governors' wishes.

3.29. **Suspension of SOs -** Except where this would contravene any statutory provision or any direction made by Monitor, any one or more of these SOs may be suspended at any meeting, provided that the majority of the Council of Governors are present and that a majority of those present vote in favour of suspension.

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

3.31. A separate record of matters discussed during the suspension of the SOs shall be made and shall be available to the Chairman and the Council of Governors.

3.32. No formal business may be transacted while the SOs are suspended.

3.33. The audit Committee shall review every decision to suspend the SOs.

3.34. **Amendment of SOs**

These SOs shall be amended only if:

3.34.1. a notice of Motion under SO3.14 has been given;

3.34.2. at least 8 of the Council of Governors are present;

3.34.3. in accordance with paragraph 44 of the Constitution, a majority of the Council of Governors present vote in favour of the amendment and the approval of Monitor to the amendment is also obtained; and

3.34.4. the amendment proposed does not contravene a statutory provision or direction made by Monitor.

3.35. **Record of Attendance**

The names of the Chairman and Governors present at the meeting shall be recorded in the minutes. Governors who are unable to attend the Council of Governors meeting should advise the Company Secretary in advance of the meeting so that their apologies may be submitted.

3.36. **Quorum**

No business shall be transacted at a meeting of the Council of Governors unless there are at least eight Governors present, and of that eight, at least five must be Public Governors. For the avoidance of doubt, the number of Public Governors present at a meeting should be in the majority.

3.37. If the Chairman or any Governor has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see SO 6 or 7) he shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1. Subject to such directions, if any, as may be given by Monitor, the Council of Governors may make arrangements for the exercise, on behalf of the Council of Governors, of any of its functions by a Committee or sub-Committee, appointed by virtue of SOs 5.1 or 5.2 below, subject to such restrictions and conditions as the Council of Governors thinks fit.

4.2. **Overriding SOs -** If for any reason these SOs are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be

reported to the next formal meeting of the Council of Governors for action or ratification. All Governors have a duty to disclose any non- compliance with these SOs to the Company Secretary as soon as possible.

5. COMMITTEES

5.1. **Appointment of Committees** - Subject to such directions and guidance as may be given by Monitor, the Council of Governors may, and if directed by the Chairman shall, appoint Committees of the Council of Governors, consisting of a majority of Governors.

5.2. A Committee appointed under SO 5.1 may, subject to such directions as may be given by Monitor or the Council of Governors, appoint sub-Committees consisting wholly or partly of members of the appointing Committee.

5.3. These SOs shall, as far as they are applicable and except as set out below, apply with appropriate alteration to meetings of any Committees or sub-Committee established by the Council of Governors, in which case the term 'Chairman' is to be read as a reference to the chairman of the Committee as the context permits, and the term 'Governor' is to be read as a reference to a member of the Committee as the context permits.

5.4. Members of Committees and sub-Committees of the Council of Governors may participate in meetings of such Committees and sub-Committees by telephone, teleconference, video or computer link and SO 3.24 shall be amended accordingly so that participation in a meeting in this manner shall be deemed to constitute a presence in person at the meeting. In such cases, if any person attends the meeting by telephone, teleconference, video or computer link, then SO3.21 shall be amended so as to allow such person shall cast their vote verbally (such verbal vote to be recorded in the minutes).

5.5. Each Committee and sub-Committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Council of Governors) as the Council of Governors shall decide from time to time and shall be in accordance with any direction or guidance issued by Monitor and any legislation.

5.6. The Council of Governors shall appoint persons to each of the Committees which it has formally constituted at the next meeting following any elections.

5.7. Where the Trust is required to appoint persons to a Committee and/or to undertake statutory functions and where such appointments are to operate independently of the Council of Governors, such appointments shall be made in accordance with any applicable statutory regulations and with any direction or guidance issued by Monitor.

5.8. The Council of Governors shall establish the Non-Executive Director performance and remuneration Committee and such other Committees as required to assist the Council of Governors in discharging its responsibilities.

5.9. Confidentiality - 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 Council of Governors or shall otherwise have concluded on that matter.

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

5.11. **Review of membership** - On an annual basis, each sub-committee of the Council of Governors should look to review its membership. This will be achieved through a ‘call for members’, which should take place after the Annual Members Meeting.

5.12. The Council will approve the final composition of each sub-Committee after the review exercise has

been completed.

5.13. **Procedure for electing Committee Chair** – Committee members will elect a Chairman from amongst the Committee membership to serve for a period of three years.

5.14. Committee Chairs may seek re-election after they have served their term of office on three occasions. Therefore, the maximum amount of time a Governor can chair a sub-Committee is nine consecutive years.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

6.1. **Declaration of interests** - Each Governor shall upon being elected or appointed declare to the Council of Governors via the Company Secretary any pecuniary (which includes monetary), personal or family interests that he has which are relevant to the Trust.

6.2. Interests which should be declared pursuant to SO 6.1 above include:

6.2.1. directorships, including Non-Executive directorships held in private companies or PLCs (with the exception of those of dormant companies);

6.2.2. majority or controlling share holdings in organisations, or ownership or part- ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the Trust or the NHS;

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

6.2.4. any connection with a voluntary organisation or other organisation that is seeking to contract or has contracted for NHS services or for the provision of the Trust's mandatory or authorised services; and

6.2.5. any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust including but not limited to lenders or banks.

6.3. No Governor shall be treated as having an interest in any contract, proposed contract or other matter by reason only:

6.3.1. of his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or

6.3.2. of an interest in any company, body or person with which he is connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or in voting on, any question with respect to that contract, proposed contract or other matter.

6.4. If Governors have any doubt about the relevance of an interest, this should be discussed with the Chairman or the Company Secretary.

6.5. At the time Governors' interests are declared, they should be recorded in the Council of Governor minutes. Any changes in interests should be declared at the next Council of Governors meeting following the change occurring. It is the obligation of the Governor to inform the Company Secretary in writing within seven days of becoming aware of the existence of an interest. The Company Secretary shall amend the Register upon receipt within three working days.

6.6. This SO applies to a Committee or sub-Committee as it applies to the Council of Governors and applies to a member of any such Committee or sub-Committee (whether or not he is also a Governor) as it applies to a Governor.

6.7. Directorships of companies likely or possibly seeking to do business with the Trust or the NHS should

be published in the Trust's annual report. This information should be kept up to date for inclusion in succeeding annual reports.

6.8. **Register of interests** - The Company Secretary will ensure that a Register of Interests (the "Register") is established to record formal declarations of interests of Governors.

6.9. The details on the Register shall be reviewed every six months.

6.10. 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.

6.11. In establishing, maintaining, updating and publicising the Register, the Trust shall comply with all guidance issued from time to time by Monitor.

7. CONFLICT OF INTEREST AND PECUNIARY INTEREST

7.1. **Disclosure of interest** - 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 contract, proposed contract or other matter which is under consideration by the Council of Governors, he shall disclose that interest to the Council of Governors as soon as he becomes aware of it.

7.2. **Conflict of interest** - During the course of a Council of Governors meeting, if a conflict of interest is disclosed, the Governor concerned shall withdraw from the meeting and take no further part in the matter under discussion.

7.3. For the purpose of this SO, the Chairman or Governor shall be treated, subject to SO7.4 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if he, or a nominee of his, is a governor of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration.

7.4. The Chairman or a Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

7.4.1. of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body; or

7.4.2. of an interest in any company, body or person with which he is connected as mentioned in SO7.3 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Governor in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

7.5. Where the Chairman or Governor:

7.5.1. has an indirect pecuniary interest in a contract, proposed contract, or any other matter by reason only of a beneficial interest in securities of a company or other body; and the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the fewer; and

7.5.2. if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class;

this SO shall not prohibit him from taking part in the consideration or discussion of the contract or other matter, or from voting on any question with respect to it without prejudice however to his duty to disclose his interest.

7.6. This SO applies to a Committee or sub-Committee of the Council of Governors as it applies to the

Council of Governors and applies to any member of any such Committee or sub-Committee as it applies to a Governor.

8. STANDARDS OF BUSINESS CONDUCT

8.1. **Policy** - Governors must comply with the Constitution, the NHS Foundation Trust Code of Governance, the requirements of the law and any applicable guidance and directions issued by Monitor.

8.2. **Canvassing of, and recommendations by, Governors in relation to appointments** - Canvassing of Directors or Governors or of any 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 SO shall be included in application forms or otherwise brought to the attention of candidates.

8.3. A Governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment but this SO shall not preclude a Governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

8.4. Informal discussions outside appointments panels or Committees, whether solicited or unsolicited, should be declared to the panel or Committee.

8.5. **Relatives of Governors** - Candidates for any staff appointment under the Trust shall when making application disclose in writing whether they are related to any Governor. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render them liable to instant dismissal.

8.6. Every Governor of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Governor is aware. It shall be the duty of the Chief Executive to report to the Trust any such disclosure made.

8.7. On election or appointment, Governors should disclose to the Trust whether they are related to any other Governor or Officer. This disclosure will be asked for when Governors sign their declaration of eligibility to vote prior to their first Council of Governors meeting.

8.8. Where the relationship to a Governor is disclosed, the SO headed 'Conflict of interest and pecuniary interest' (SO 7) shall apply.

9. MISCELLANEOUS

9.1. **SOs to be given to Governors** - It is the duty of the Company Secretary to ensure that existing Governors and Officers and all new appointees are notified of and understand their responsibilities within these SOs. Updated copies shall be issued to individuals designated by the Chief Executive. New Governors shall be informed in writing and shall receive copies where appropriate of SOs.

9.2. **Review of SOs** - These SOs shall be reviewed annually by the Council of Governors. The requirement for review extends to all documents having effect as if incorporated in these SOs.

9.3. **Dispute resolution** - Where a dispute arises regarding the interpretation of these SOs and the procedure to be followed at meetings of the Council of Governors, the Trust and the Parties to the dispute shall use all reasonable endeavours to resolve the dispute as quickly as possible.

9.4. Where a dispute arises which involves the Chairman, the dispute shall be referred to the Senior Independent Director who will use all reasonable efforts to mediate a settlement to the dispute.

9.5. For the avoidance of doubt, the Company Secretary shall deal with any membership queries and other similar questions in the first place including any voting or legislation issues and shall otherwise follow a process for resolving such matters in accordance with any procedures agreed by the Board of Directors.

ANNEX 7
ADDITIONAL PROVISIONS - BOARD OF DIRECTORS

Disqualification

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

   (a) a person as referred to in paragraph 30.1 of the constitution;

   (b) a member of the Council of Governors;

   (c) a spouse, partner, parent or child of a member of the Board of Directors;

   (d) a member of a local authority's scrutiny committee covering health matters;

   (e) a person who is the subject of a disqualification order made under the Company Directors Disqualification Act 1986;

   (f) a person whose tenure in office as a chairman or as a member or director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, non-attendance at meetings, or for non-disclosure of a pecuniary interest;

   (g) a person who within the preceding two years has been dismissed, otherwise than by reasons of redundancy or for reasons of ill health, from any paid employment with a health service body;

   (h) in the case of a Non-Executive Director, a person who has refused without reasonable cause to fulfil any training requirement established by the Board of Directors;

   (i) a person who has refused to sign and deliver to the Company Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for Directors;

   (j) in the case of a Non-Executive Director, a person who is no longer a member of the Public Constituency; and

   (k) a person who has had his name removed or been suspended from any list prepared under the 2006 Act or under any related subordinate legislation or who has otherwise been suspended or disqualified from any healthcare profession, and has not subsequently had his name included in such a list or had his suspension lifted or qualification reinstated.

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1. INTRODUCTION

Regulatory Framework

1.1. Frimley Health NHS Foundation Trust (the "**Trust**") is a public benefit trust which was established on 1 April 2005 under the Health and Social Care (Community Health and Standards) Act 2003 which has now been replaced by the 2006 Act (as amended by the 2012 Act).

1.2. The principal places of business of the Trust are Frimley Park Hospital, Frimley, Camberley, Surrey, Heatherwood Hospital, Ascot, Berkshire, and Wexham Park Hospital, Slough, Buckinghamshire.

1.3. The Trust is governed by the 2006 Act, by its Constitution and by its terms of Authorisation granted by Monitor.

2. THE BOARD OF DIRECTORS

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

2.2. The Board of Directors has resolved that certain powers and decisions may only be exercised or made by the Board of Directors in formal session. These powers and decisions are set out in Appendix 1 ("Scheme of decisions reserved to the Board of Directors") and have effect as if incorporated into the SOs.

2.3. **Appointment of the Chairman, and Non-Executive Directors** – In accordance with paragraph 26 of the Constitution, the Chairman and the other Non-Executive Directors are appointed and removed by the Council of Governors at a general meeting of the Council of Governors.

2.4. **Appointment of the Chief Executive and the Executive Directors -** The Chief Executive and the other Executive Directors are appointed in accordance with paragraph 28 of the Constitution. The Chairman and Non-Executive Directors appoint or remove the Chief Executive and a Committee consisting of the Chairman, Chief Executive and the Non-Executive Directors appoint or remove the Executive Directors.

2.5. **Terms of office of the Chairman and Directors** - The remuneration and terms of office of the Chairman and Non-Executive Directors shall be decided by the Council of Governors at a general meeting of the Council of Governors in accordance with paragraph 33 of the Constitution.

2.6. The remuneration and terms of office of the Chief Executive and other Executive Directors shall be decided by a Committee of Non-Executive Directors in accordance with paragraph 33 of the Constitution.

2.7. **Appointment of Deputy Chairman** - For the purpose of enabling the proceedings of the Trust to be conducted in the absence of the Chairman, the Non-Executive Directors shall appoint a Non-Executive Director to be Deputy Chairman for such a period, not exceeding the remainder of his term as Non-Executive Director, as they may specify on appointing him.

2.8. Any Non-Executive Director appointed as Deputy Chairman in accordance with SO 2.7 above may at any time resign from the office of Deputy Chairman by giving notice in writing to the Chairman. The other Non-Executive Directors may thereupon appoint another Non-Executive Director as Deputy Chairman in accordance with SO2.7.

2.9. **Powers of Deputy Chairman** - Subject to SO2.10 below, where the Chairman of the Trust has died or has ceased to hold office, or where he has been unable to perform his duties as Chairman owing to illness or any other cause, the Deputy Chairman or any other Non-Executive Director shall act as Chairman until a new Chairman is appointed in accordance with the Constitution or the existing Chairman resumes his duties as the case may be; and references to the Chairman in these SOs shall, so long as there is no Chairman able to perform his duties, be taken to include references to the Deputy Chairman.

2.10. Paragraph 17.1 of the Constitution shall apply where the Chairman is unable to perform his duties at a meeting of the Council of Governors.

3. MEETINGS OF THE BOARD OF DIRECTORS

3.1. 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 in writing, or to make any oral report of proceedings as they take place without the prior agreement of the Board of Directors.

3.2. **Calling meetings** - Ordinary meetings of the Board of Directors shall be held at such times and places as the Board of Directors may determine and there will be no fewer than six meetings per year.

3.3. Meetings of the Board of Directors may be called by the Company Secretary, or by the Chairman, or by four Directors who give written notice to the Company Secretary specifying the business to be carried out. The Company Secretary shall send (by appropriate means including, without limitation, by email or post, or via the Trust's website) a written notice of the dates, times and locations of meetings of the Board of Directors meetings to all Directors as soon as possible after receipt of such a request. Other, or emergency, meetings of the Board of Directors may be called (by appropriate means including, without limitation, by email or post, or via the Trust's website) in accordance with the Constitution. Subject to SO 3.5 below, the Company Secretary shall call a meeting on at least 14but not more than 28 days' notice to discuss the specified business. If the Company Secretary fails to call such a meeting then the Chairman or four Directors, whichever is the case, shall call such a meeting.

3.4. In special circumstances, where there is an urgent need to call a meeting, the Company Secretary or Chairman may decide that a meeting shall be called on less than seven days' notice and in such circumstances as much notice as possible shall be given of the meeting to each of the Directors.

3.5. Subject to SO 3.7 below, lack of service of the notice on any Director shall not affect the validity of a meeting.

3.6. Failure to serve such a notice specifying the business on more than two Directors will invalidate the meeting. A notice will be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post or, where the notice is sent by email, at the time at which the email is sent.

3.7. **Agenda of meetings** - Before each meeting of the Board of Directors, an agenda of the meeting specifying the business proposed to be transacted at it and any supporting papers available at that time shall be delivered to each Director, or sent by post to the usual place of residence of each Director, so as to be available to him at least three clear days before the meeting. If it is anticipated that the Directors participating in the meeting will not be in the same place, the agenda should specify how it is proposed that they should communicate with each other during the meeting.

3.8. **Setting the agenda** - The Board of Directors may determine that certain matters shall appear on every agenda for a meeting of the Board of Directors and shall be addressed prior to any other business being conducted. (Such matters may be identified within these SOs or following subsequent resolution shall be listed in an Appendix to the SOs.)

3.9. A Director desiring a matter to be included on an agenda shall make his request in writing to the Chairman at least 10 clear days before the meeting. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chairman.

3.10. **Participation in meetings** – Directors may participate in meetings by telephone, teleconference, video or computer link and participation in a meeting in this manner shall be deemed to constitute a presence in person at the meeting.

3.11. In determining whether Directors are participating in a meeting, it is irrelevant where any Director is

or how they communicate with each other. If all the Directors are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

3.12. **Chairman of meeting** - At any meeting of the Board of Directors, the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy Chairman, if there is one and he is present, shall preside. If the Chairman and Deputy Chairman are absent such Non-Executive Director as the Board of Directors present shall choose shall preside.

3.13. **Notices of Motion** - A Director desiring to move or amend a Motion shall send a written notice thereof at least 10 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. This SO shall not prevent any Motion being moved during the meeting, without notice on any business mentioned on the agenda

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 the 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 six calendar months shall bear the signature of the Director who gives it and also the signature of four other Directors. When any such Motion has been disposed of by the Board of Directors, it shall not be competent for any Director to propose a Motion to the same effect within six months; however the Chairman may do so if he considers it appropriate.

3.16. **Motions** - The mover of a Motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

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

3.17.1. an amendment to the Motion;

3.17.2. the adjournment of the discussion or the meeting;

3.17.3. that the meeting proceed to the next business (*);

3.17.4. the appointment of an ad hoc Committee to deal with a specific item of business; or

3.17.5. that the Motion be now put (*)

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

3.18. No amendment to the Motion shall be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the Motion.

3.19. **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, relevancy, regularity and any other matters shall be final.

3.20. **Voting** - Questions arising at a meeting of the Board of Directors shall be decided by a majority of votes except that:

3.20.1. in the case of an equality of votes, the Chairman (or in his absence the Deputy Chairman or in the Deputy Chairman's absence a Non-Executive Director who is appointed by the Directors present at the meeting to chair the meeting) shall have a second and casting vote; and

3.20.2. no resolution of the Board of Directors shall be passed if it is unanimously opposed by all

of the Executive Directors present or by all of the Non-Executive Directors present.

3.21. All questions put to the vote shall be shall be decided by a show of hands (and if any person is attending by telephone, teleconference, video or computer link such person shall cast their vote verbally (such verbal vote to be recorded in the minutes).

3.22. A paper ballot may also be used if a majority of the Directors present so request, in which case any person attending by telephone, teleconference, video or computer link shall cast their vote verbally (such verbal vote to be recorded in the minutes).

3.23. If at least one-third of the Directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Director present voted or abstained.

3.24. If a Director so requests, his vote shall be recorded by name upon any vote (other than by paper ballot).

3.25. The Board of Directors may agree that its members can participate in its meetings by telephone, teleconference, video or computer link. Participation in a meeting in this manner shall be deemed to constitute a presence in person at the meeting.

3.26. An Officer who has been appointed formally by the Board of Directors to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director. An Officer attending the Board of Directors to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An Officer's status when attending a meeting shall be recorded in the minutes.

3.27. **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.

3.28. 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 next meeting.

3.29. Minutes shall be circulated in accordance with Directors' wishes.

3.30. **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 the meetings of the Board or Committee thereof. Such permission shall be granted only upon resolution of the Board of Directors.

3.31. **Written resolutions** - Where the Chairman or a Director desires that a resolution is passed by the Board of Directors, the Chairman or the Director (with the consent of the Chairman) may circulate the resolution amongst the Board of Directors proposing that it is passed as a written resolution. For the resolution to be validly passed, the resolution must be signed by at least six Directors (such Directors to include: (i) either (a) the Chairman or Deputy Chairman and two Non-Executive Directors or (b) three Non-Executive Directors (but only if the Chairman or Deputy Chairman are unavailable for a period of 48 hours from the time at which the resolution is first circulated); and (ii) three Executive Directors (such Executive Directors to include the Chief Executive or Finance Director). Any written resolution that is so passed shall be noted at the next meeting of the Board of Directors.

3.32. **Suspension of SOs** - Except where this would contravene any statutory provision or any direction made by Monitor, any one or more of these SOs may be suspended at any meeting, provided that at least five Directors are present agree to such suspension, including (i) not less than three Executive Directors (one of whom must be either the Chief Executive or the Finance Director) and (ii) two Non-Executive Directors, and that a majority of those present vote in favour of suspension.

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

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

3.35. No formal business may be transacted while the SOs are suspended.

3.36. The Audit Committee shall review every decision to suspend the SOs.

3.37. **Amendment of SOs** - These SOs shall be amended only if:

3.37.1. a notice of Motion under SO 3.13 has been given;

3.37.2. a majority of the Trust's Non-Executive Directors vote in favour of amendment;

3.37.3. at least six Directors are present, including no less than three Executive Directors (one of whom must be either the Chief Executive or the Finance Director) and three Non-Executive Directors;

3.37.4. in accordance with paragraph 44 of the Constitution, a majority of the Council of Governors present at a meeting of the Council of Governors vote in favour of the amendment and the approval of Monitor to the amendment is also obtained; and

3.37.5. the amendment proposed does not contravene a statutory provision or direction made by Monitor.

3.38. **Record of attendance** - The names of the Chairman and Directors present at the meeting shall be recorded in the minutes.

3.39. **Quorum** - No business shall be transacted at a meeting of the Board of Directors unless at least six Directors are present including not less than three Executive Directors (one of whom must be either the Chief Executive or the Finance Director) and not less than three Non-Executive Directors.

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

3.41. If the Chairman or another Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see SO 6 or 7) he shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one Executive Director to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting (for example when the Board of Directors considers the recommendations of the performance and remuneration Committee). In such circumstances, the quorum shall be three Non-Executive Directors (including the Chairman).

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

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1. Subject to SO2.2 and such directions, if any, as may be given by Monitor, the Board of Directors may make arrangements for the exercise, on behalf of the Board of Directors, of any of its functions by:

4.1.1. a Committee or sub-Committee, appointed by virtue of SOs 5.1 or 5.2 below; or

4.1.2. an Officer,

in each case subject to such restrictions and conditions as the Board of Directors thinks fit.

4.2. **Emergency powers** - The powers which the Board of Directors has retained to itself within these SOs (SO 2.2) may in emergency be exercised by the Chief Executive (or in his absence the Finance Director) and the Chairman (or in his absence the Deputy Chairman or any other Non-Executive Director). The exercise of such powers by the Chief Executive (or Finance Director) and the Chairman (or Deputy Chairman or any other Non-Executive Director) shall be reported to the next formal meeting of the Board of Directors for ratification.

4.2.1 **E-Governance** –

(a) Where agreed by any of the office holders described at paragraph 4.2 above decisions may also be made by way of e-governance.

(b) In such cases the document or issue in need of review should be sent via e-mail and the Board of Directors should have a specified number of days to register their approval via email to the Secretary. The document should not require extensive discussion, although the Board of Directors may choose to ask specific questions to the document author. The email will need to clearly specify the approval that is sought.

(c) A document or issue will be considered approved when the majority of the Board of Directors has approved it. As in a Board meeting, the Chairman shall have the casting vote in the event of an evenly split vote. Notice of all decisions taken by e-governance will be reported to the following formal Board or Committee meeting.

4.3. **Delegation to Committees** - The Board of Directors 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.

4.4. **Delegation to officers** - Those functions of the Trust which have not been retained as reserved by the Board of Directors or delegated to an executive Committee or sub-Committee shall be exercised on behalf of the Board of Directors by the Chief Executive. The Chief Executive shall determine which functions he will perform personally and shall nominate Officers to undertake the remaining functions for which he will still retain accountability to the Board of Directors. See Appendix 1.

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

4.6. Nothing in the scheme of delegation shall impair the discharge of the direct accountability to the Board of Directors of the Finance Director to provide information and advise the Board of Directors in accordance with statue or Monitor's requirements. Outside these regulatory requirements the Finance Director shall be accountable to the Chief Executive for operational matters.

4.7. The arrangements made by the Board of Directors as set out in the "reservation of powers to the board and delegation of powers" shall have effect as if incorporated in these SOs.

5. COMMITTEES

5.1. **Appointment of Committees** - Subject to such directions and guidance as may be given by Monitor, the Board of Directors may, and if directed by Monitor shall, appoint Committees of the Board of Directors that shall include at least one Director.

5.2. A Committee appointed under SO 5.1 may, subject to SO 5.5 below and such directions as may be given by Monitor or the Board of Directors, appoint sub-Committees consisting wholly or partly of

members of the appointing Committee (whether or not they include Directors) or wholly of persons who are not members of the appointing Committee (whether or not they include Directors).

5.3. These SOs shall, as far as they are applicable, apply with appropriate alteration to meetings of any Committee or sub-Committee established by the Board of Directors, in which case the term 'Chairman' is to be read as a reference to the chairman of the Committee as the context permits, and the term 'Director' is to be read as a reference to a member of the Committee as the context permits.

5.4. Each Committee and sub-Committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board of Directors) as the Board of Directors shall decide from time to time and shall be in accordance with any direction or guidance issued by Monitor and any applicable legislation.

5.5. Committees may not delegate their executive powers to a sub-Committee unless expressly authorised by the Board of Directors.

5.6. The Board of Directors shall appoint persons to sit on each of the Committees which it has formally constituted.

5.7. Where the Trust is required to appoint persons to a Committee and/or to undertake statutory functions and where such appointments are to operate independently of the Board of Directors, such appointments shall be made in accordance with any applicable statutory regulations and with any direction or guidance issued by Monitor.

5.8. The Board of Directors shall establish the following Committees (and sub-Committees) of the Trust:

5.8.1. Audit;

5.8.2. Performance and remuneration;

5.8.3. Finance Investment;

5.8.4. Nominations;

5.8.5. Quality Assurance, and

5.8.6. People

and the Board of Directors shall also establish such other Committees (and sub-Committees) as required to discharge the Board of Director's responsibilities.

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

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

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

6.1. **Declaration of interests** - Each Director shall upon being appointed declare to the Board of Directors via the Company Secretary any pecuniary (which includes monetary), personal or family interests that he has which are relevant to the Trust.

6.2. Interests which should be declared pursuant to SO 6.1 above include:

6.2.1. directorships, including non-executive directorships held in private companies or PLCs (with

the exception of those of dormant companies);

6.2.2. majority or controlling share holdings in organisations, or ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the Trust or the NHS;

6.2.3. a position of authority in a charity or Voluntary Organisation in the field of health and social care;

6.2.4. any connection with a Voluntary Organisation or other organisation that is seeking to contract or has contracted for NHS services or for the provision of the Trust's mandatory or authorised services; and

6.2.5. any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust including but not limited to lenders or banks.

6.3. No Director shall be treated as having an interest in any contract, proposed contract or other matter by reason only:

6.3.1. of his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or

6.3.2. of an interest in any company, body or person with which he is connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or in voting on, any question with respect to that contract, proposed contract or other matter.

6.4. If Directors have any doubt about the relevance of an interest, this should be discussed with the Chairman or the Company Secretary.

6.5. At the time Directors' interests are declared, they should be recorded in the Board of Director minutes. Any changes in interests should be declared at the next Board of Directors meeting following the change occurring. It is the obligation of the Director to inform the Company Secretary in writing within seven days of becoming aware of the existence of an interest. The Company Secretary shall amend the Register upon receipt within three working days.

6.6. This SO applies to a Committee or sub-Committee as it applies to the Board of Directors and applies to a member of any such Committee or sub-Committee (whether or not he is also a Director) as it applies to a Director.

6.7. Directorships of companies likely or possibly seeking to do business with the Trust or the NHS should be published in the Trust's annual report. This information should be kept up to date for inclusion in succeeding annual reports.

6.8. **Register of interests** - The Company Secretary will ensure that a Register of interests (the "Register") 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 Directors and Non-Executive Directors.

6.9. The details on the Register shall be reviewed every six months.

6.10. 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.

6.11. In establishing, maintaining, updating and publicising the Register, the Trust shall have due regard to all guidance issued from time to time by Monitor.

7. CONFLICT OF INTEREST AND PECUNIARY INTEREST

7.1. **Disclosure of interest** - If a Director has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any contract, proposed contract or other matter which is under consideration by the Board of Directors, he shall disclose that interest to the Board of Directors as soon as he becomes aware of it.

7.2. **Conflict of interest** - During the course of a Board of Directors meeting, if a conflict of interest is disclosed, the Director concerned shall withdraw from the meeting and take no further part in the matter under discussion.

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

7.4. For the purpose of this SO, the Director shall be treated, subject to SO 7.5 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if he, or a nominee of his, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration.

7.5. The Director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

7.5.1. of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body; or

7.5.2. of an interest in any company, body or person with which he is connected as mentioned in SO 7.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Director in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

7.6. Where the Director:

7.6.1. has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body; and

7.6.2. the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less; and

7.6.3. if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class;

this SO shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it without prejudice however to his duty to disclose his interest.

7.7. This SO applies to a Committee or sub-Committee of the Board of Directors as it applies to the Board of Directors and applies to any member of any such Committee or sub-Committee as it applies to a Director.

8. STANDARDS OF BUSINESS CONDUCT

8.1. All Directors must comply with the Trust's standards of business conduct policy as amended from time to time.

8.2. A Director shall not solicit for any person any appointment under the Trust or recommend any

person for such appointment but this SO shall not preclude a Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

8.3. Informal discussions outside appointments panels or Committees, whether solicited or unsolicited, should be declared to the panel or Committee.

8.4. **Relatives of Directors**- every Director of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Director is aware. It shall be the duty of the Chief Executive to report to the Board of Directors any such disclosure made.

8.5. On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Board of Directors whether they are related to any other Director or employee of the Trust.

9. DIRECTORS ACTING AS A CORPORATE TRUSTEE

9.1. 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. Directors acting on behalf of the Trust as a corporate trustee are acting as a quasi-trustee. Accountability for charitable funds held on trust is to the Charity Commission and to Monitor. Accountability for non-charitable funds held on trust is only to Monitor.

10. TENDERING AND CONTRACT PROCEDURE

10.1. **Duty to comply with SOs** - the procedure for making all contracts by or on behalf of the Trust shall comply with these SOs (except where SO3.31 (Suspension of SOs) is applied).

10.2. **Contracts** - The Board of Directors may enter into contracts on behalf of the Trust within its statutory powers and shall comply with:

10.2.1. these SOs;

10.2.2. the Trust's SFIs; and

10.2.3. its terms of Authorisation.

10.3. **Personnel and agency or temporary staff contracts** - the Chief Executive shall nominate Officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.

10.4. **Contracts involving funds held on trust** - such contracts involving charitable funds shall comply with the requirements of the Charities Act.

11. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

11.1. **Custody of seal** - the common seal of the Trust shall be kept by the Company Secretary in a secure place.

11.2. **Sealing of documents** - where it is necessary that a document shall be sealed, the seal of the Trust shall be affixed in the presence of two Executive Directors or one Executive Director and either the Chairman or Company Secretary, duly authorised by a resolution of the Board of Directors (or of a Committee thereof where the Board of Directors has delegated its powers) and shall be attested by them.

11.3. **Register of sealing** - an entry of every sealing shall be made and numbered consecutively in a book provided for that purpose, and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal. A report of all sealing shall be made to the Board of Directors at least bi-annually. The report shall detail the seal number, the description

of the document and date of sealing.

11.4. The seal should be used to execute deeds (e.g. conveyances of land) or where otherwise required by law.

12. SIGNATURE OF DOCUMENTS

12.1. 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, the Finance Director or other Executive Director, unless any enactment otherwise requires or authorises, or the Board of Directors shall have given the necessary authority to some other person for the purpose of such proceedings.

12.2. The Chief Executive, or the Finance Director or other Executive Directors shall be authorised, by resolution of the Board of Directors, to sign on behalf of the Trust any agreement or other document (not required to be executed as a deed) the subject matter of which has been approved by the Board of Directors or any Committee or sub-Committee to which the Board of Directors has delegated appropriate authority.

13. MISCELLANEOUS

13.1. **SOs to be given to Directors and officers** - it is the duty of the Chief Executive, including the Company Secretary of the Trust on the Chief Executive's behalf, to ensure that Directors are notified of and understand their responsibilities within these SOs and the Trust's SFIs. Updated copies shall be issued to the Directors.

13.2. **Documents having the standing of SOs** - SFIs and reservation of powers to the Board of Directors and delegation of powers shall have effect as if incorporated into these SOs.

13.3. **Review of SOs** - these SOs shall be reviewed annually by the Board of Directors. The requirement for review extends to all documents having effect as if incorporated in these SOs.

13.4. **Dispute resolution** - where a dispute arises out of or in connection with the Constitution, including the interpretation of these SOs and the procedure to be followed at meetings of the Board of Directors, the Trust and the parties to the dispute shall use all reasonable endeavours to resolve the dispute as quickly as possible.

13.5. Where a dispute arises which involves the Chairman, the dispute shall be referred to the Senior Independent Director who will use all reasonable efforts to mediate a settlement to the dispute.

13.6. For the avoidance of doubt, the Company Secretary shall deal with any membership queries and other similar questions in the first place including any voting or legislation issues and shall otherwise follow a process for resolving such matters in accordance with any procedures agreed by the Board of Directors.

APPENDIX 1 SCHEME OF DECISIONS RESERVED TO THE BOARD

REF	DECISIONS RESERVED TO THE BOARD
TOA	**General Enabling Provision**
SOs	The Board in full session may determine any matter it wishes within its statutory powers.
Constitution SOs	**Regulations and Control** 1. Approve Standing Orders (SOs), a Scheme of Decisions Reserved to the Board and Standing Financial Instructions for the regulation of its proceedings and business. 2. Suspend Standing Orders, subject to SOs 3.32 to 3.35. 3. Amend the Standing Orders, subject to SO 3.37. 4. Ratify any urgent decisions taken by the Chairman and Chief Executive in accordance with SO 4.2 5. Approve a Scheme of Decisions/Duties delegated by the Board to Committees. 6. Require and receive the declaration of Directors' interests that may conflict with those of the Trust and determining the extent to which that Director may remain involved with the matter under consideration. 7. Receive reports from committees including those that the Trust is required by Monitor or other regulation to establish and to take appropriate action on. 8. Confirm or otherwise the recommendations of the Board's committees where the committees do not have executive powers. 9. Approve arrangements relating to the discharge of the Trust's responsibilities as a corporate trustee for funds held on trust. 10. Establish terms of reference and reporting arrangements of all committees and sub-committees that are established by the Board. 11. Authorise procedures for the use of the seal. 12. Ratify or otherwise instances of failure to comply with Standing Orders brought to the Trust Secretary's attention in accordance with SO 3.42. 13. Discipline Directors or employees who are in breach of statutory requirements or SOs
Constitution SOs	**Appointments/Dismissal** 1. Appoint the Deputy Chairman of the Board. 2. Appoint and dismiss committees (and individual committee members, including the chairs of the committees) that are directly accountable to the Board. 3. Confirm appointment of members of any committee of the Trust as representatives on outside bodies.
Constitution SOs	**Strategy, Business Plans and Budgets** 1. Define the strategic aims and objectives of the Trust.

	2. Approve the Trust's policies and procedures for the management of risk. 3. Approve budgets (Capital and Revenue). 4. Approve the Trust's proposed Annual Plan. 5. Agree proposals for acquisition, disposal or change of use of land and/or buildings. 6. Approve the Trust's quality plans, including its annual quality account and its focus and targets for the coming year.
SOs	**Audit** 1. Approve the appointment (and where necessary dismissal) of internal auditors, and to receive reports of the Audit Committee meetings and take appropriate action. (The appointment of the external auditor is made by the Council of Governors following discussion with the Audit Committee.) 2. Receive the annual management letter received from the external auditor and agree the proposed action, taking account of the advice, where appropriate, of the Audit Committee.
Constitution SOs	**Annual Reports and Accounts** 1. Approve the Trust's Annual Report and Annual Accounts. 2. Approve the Annual Report and Accounts for funds held on trust as corporate trustee.
SOs	**Monitoring** 1. Receive such reports as the Board sees fit from committees in respect of their exercise of powers delegated. Continuous appraisal of the affairs of the Trust by means of the provision to the Board as the Board may require from Directors, committees, and Officers of the Trust as set out in management policy statements. All monitoring returns required by Monitor and the Charity Commission shall be reported, at least in summary, to the Board.

APPENDIX 2
SCHEME OF DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
SFIs	Audit Committee (Non-Executive Directors, excluding the chairman)	**The Audit Committee will:** 1. Advise the Board on internal and external audit services; 2. Review the establishment, maintenance and adequacy of the governance, risk management and internal control processes within the Trust (both clinical and non-clinical); 3. Review any amendments to the Trust's Standing Financial Instructions; 4. Review the annual financial statements prior to submission to the Board of Directors; and 5. Review the assurance framework supporting the information in the Quality Report.
Constitution	Performance And Remuneration Committee (Non-Executive Directors, including the chairman)	**The Performance and Remuneration Committee will:** 1. Recommend to the Chairman and other Non-Executive Directors on the Board the discipline and the removal of the Chief Executive; 2. Recommend the dismissal (along with the Chief Executive) of any Executive Director; 3. Decide the appropriate remuneration and terms of service for the Chief Executive and other Executive Directors including: • all aspects of salary (including any performance-related elements/bonuses); • provisions for other benefits, including pensions and cars; • arrangements for termination of employment and other contractual terms; and • proper calculation and scrutiny of termination payments to executive directors; and 4. Review the appraisal process for the Directors and Board as a whole.

SOs	Nominations Committee (chairman, chief executive officer and Non-Executive Directors)	**The Nominations Committee will:** 1. Review the skills, experience and requirements of the Board and make recommendations to the Board on any gaps identified; 2. Facilitate the process for the recruitment of additional Directors as required both Executive and Non-Executive), working with members of the Council of Governors' Non-Executive Director Performance and Remuneration Committee when recruiting a Non-Executive Director or Chairman; 3. Recommend the appointment of the Chief Executive Officer (subject to the approval of the Council of Governors) or other Executive Director to the other Non-Executive Directors on the Board of Directors.
SOs	ICS Committee in Common (Chief Executive and Medical Director and nominated deputies the Director of Finance, Deputy Chief Executive and the Director of Nursing.	**Frimley Health & Care's Integrated Care System Committee in Common will:** 1. Approve the final system control total by a date to be agreed with NHS England/Improvement; 2. Approve the annual system operating plan; 3. Approve in year changes to the system operating plan; 4. Consider and approve transformation investment cases in line with the system operating plan; **5.** Escalate and resolve any other issues which may impact on the system.
SOs	Quality Assurance Committee	**The Quality Assurance Committee will:** 1. Ensure that the strategic quality priorities are focused on those which best support delivery of the Trust priority objectives in relation to patient experience, the safety of patients and service users and effective outcomes for patients and service users 2. Review the development of the quarterly Quality Account in readiness for the preparation of the annual Quality Report 3. Review the independent annual clinical audit programme and ensure it provides a suitable level of coverage for assurance purposes and receive reports as appropriate 4. Review compliance with regulatory standards, as examples, the CQC (confirm and challenge process), NHSLA and Monitor Quality Governance Framework 5. Review the non-financial risks on the Corporate Assurance Framework and Corporate Risk Register which have been assigned to the Committee and satisfy itself as to the adequacy of assurances on the operation of key controls and the adequacy of action plans to address weaknesses in controls and assurances.

SOs	Finance Investment Committee	**The Finance Investment Committee will:** Provide an objective review of the Trust's strategy and performance in the following areas; 1. Financial strategy and business planning; 2. Income and contracts management; 3. Transformation and efficiency, including CIP and all transformation plan programmes; 4. Major capital investment schemes, including reviews of outline and full business cases and reviewing outcomes following completion and approving investments within the plan within set limits; 5. Key commercial arrangements, including long term leases and major service developments; 6. Procurement.
SOs	People Committee	**The People Committee will:** 1. Oversee progress on the development and delivery of workforce, OD and cultural change strategies that support the Trust's strategic priorities and in the context of the ICS; 2. Receive reports relating to the creation and delivery of workforce plans aligned to Trust and ICS strategies to provide assurance that the Trust has adequate staff with the necessary skills and competencies to meet the future needs of patients and service users; 3. Receive reports relating to the Trust's workforce performance indicators and provide assurance that any necessary corrective plans and actions are in place; 4. Provide assurance that legal and regulatory requirements relating to the workforce are met; 5. Consider the control and mitigation of workforce related risks and provide assurance to the Board; 6. Advise the Board on remuneration proposals for Trust employees at tier 2 and below for approval; 7. Consider any proposed significant changes in the terms of employment of Trust employees, as requested by the Board of Directors and or as required by national directives; 8. Oversee the work of the Operational People Committee. 9. Review and provide assurance on those elements of the Board Assurance Framework identified as the responsibility of the Committee seeking where necessary further action/ assurance.

ANNEX 9
FURTHER PROVISIONS – MEMBERS

1 Disqualification from membership

1.1 An individual may not become or continue as a Member of the Trust if:

1.1.1 the individual is under 16 years of age;

1.1.2 the individual has been specifically excluded in writing from any of the Trust's premises or other facilities in whole or in part following a decision of the Board of Directors that such a course of action is necessary because, for example, the individual concerned has been violent, aggressive or has committed an act of gross misconduct; or

1.1.3 the Board of Directors considers that an individual has or is likely to cause harm or detriment to the Trust and after the Trust has consulted with or made reasonable efforts to consult with the individual about the concerns of the Board of Directors and the Board of Directors notifies the individual about his disqualification accordingly.

1.2 Notwithstanding anything contained in this Constitution, no person who ceases to be a Member of the Trust pursuant to paragraph 1.1.2 or 1.1.3 above shall be re-admitted to membership except by a decision of the Board of Directors.

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

2 Members - expulsion by the Council of Governors

2.1 A Member may be expelled by a resolution of the Council of Governors.

2.2 A Member may complain to the Company Secretary that another Member has acted in a way detrimental to the interests of the Trust.

2.3 If a complaint is made, the Council of Governors, or a sub-Committee thereof, may consider the complaint having taken such steps as it considers appropriate to ensure the Member in question has his point of view heard and may either:

2.3.1 Dismiss the complaint and take no further action; or

2.3.2 Arrange for a resolution to expel the Member complained of to be considered at the next meeting of the Council of Governors, or a sub-Committee thereof.

2.4 If a resolution to expel a Member is to be considered at a meeting of the Council of Governors, or a sub-Committee thereof, 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.

2.5 At the meeting of the Council of Governors, or a sub-Committee thereof, the Governors will consider evidence in support of the complaint and such evidence as the Member complained of may wish to place before them.

2.6 If the Member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.

2.7 A person expelled from membership will cease to be a Member upon the declaration by the Chairman of the meeting that the resolution to expel them is carried.

2.8 No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of the majority of the members of the Council of Governors present at a meeting of the Council of Governors.

3 Termination of membership

3.1 A Member shall cease to be a Member if that Member:

3.1.1 resigns by notice to the membership manager or to the Company Secretary;

3.1.2 ceases to fulfil the requirements of membership as set out in paragraphs 5 to 10 of this Constitution;

3.1.3 dies; or

3.1.4 the Council of Governors, having made reasonable enquiries, determines that the Member no longer wishes to be a Member or he ceases to be eligible as a Member for whatever reason.

ANNEX 10
ANNUAL MEMBERS' MEETING

1. MEMBERS' MEETINGS

1.1. The Trust shall hold a Members' meeting for all Members (called the "Annual Members' Meeting") within six months of the end of each financial year of the Trust.

1.2. Any Members' meeting other than the Annual Members' Meeting shall be called a "Special Members' Meeting".

1.3. Both Annual Members' Meetings and any Special Members' Meetings shall be open to all members of the Trust, members of the Council of Governors and members of the Board of Directors, together with representatives of the Trust's Auditors, and to members of the public. The Trust may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the Trust to attend any such meeting.

1.4. The Board of Directors may convene an Annual Members' Meeting or a Special Members' Meeting when it thinks fit. The Council of Governors may request the Board of Directors to convene a Members' meeting.

1.5. The Board of Directors (or at least one member thereof) shall present to the Members at the Annual Members' Meeting:

1.5.1. the annual accounts;

1.5.2. any report of the Auditor on them;

1.5.3. the annual report;

1.5.4. a report on steps taken to secure that (taken as a whole) the actual membership or the Trust is representative of those eligible for such membership;

1.5.5. the progress of the membership plan; and

1.5.6. the results of any election and appointments to the Council of Governors, and any other reports or documentation it considers necessary or otherwise required by Monitor or the 2006 Act.

1.6. The Trust shall give notice of all Members' meetings:

1.6.1. by notice in writing to all Members;

1.6.2. by notice prominently displayed at the Trust's headquarters and at all of the Trust's hospitals;

1.6.3. by notice on the Trust's website; and

1.6.4. to the Council of Governors, the Board of Directors, and to the Trust's Auditors,

stating whether the meeting is an Annual Members' Meeting or a Special Members' Meeting including the time, date, place of the meeting, and the business to be dealt with at the meeting at least 14 working days before the date of the relevant Members' meeting .

1.7. An accidental omission to give notice of a Members' meeting or to send, supply or make available any document or information relating to the meeting, or the non-receipt of any such notice, document or information by a person entitled to receive any such notice, document or information shall not invalidate the proceedings at that meeting.

1.8. The Chairman, or in his absence, the Deputy Chairman shall preside at all Members' meetings of the Trust. If neither the Chairman nor the Deputy Chairman is present, the Governors present shall

elect one of their number to act as Chairman and if there is only one Governor present and willing to act that person shall be Chairman. If no Governor is willing to act as Chairman or if no Governor is present within 15minutes after the time appointed for holding the meeting, the Members present and entitled to vote shall choose one of their number to act as Chairman.

1.9. The quorum for a Members' meeting shall be four members present and entitled to vote. If a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting shall stand adjourned for a minimum of seven days until such time as the Board of Directors determine.

1.10. The Chairman may, with the consent of a Members' meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn a Members' meeting from time to time and from place to place or for an indefinite period.

1.11. A resolution put to the vote of a Members' meeting shall be decided on a show of hands.

1.12. No business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.

1.13. If the Board of Directors, in its absolute discretion, considers that it is impractical or unreasonable for any reason to hold a Members' meeting at the time, date or place specified in the notice calling that meeting, it may move and/or postpone the general meeting to another time, date and/or place.

1.14. In the case of a Members' meeting adjourned or postponed for 14 days or more, at least seven working days' notice shall be given specifying the time and place of the adjourned Members' meeting and the general nature of the business to be transacted. Otherwise, it shall not be necessary to give any such notice.

1.15. The Board of Directors may make any arrangement and impose any restriction it considers appropriate to ensure the security of a Members' meeting.

1.16. Any approval to speak at a Members' meeting must be given by the Chairman. Speeches must be directed to the matter, Motion or question under discussion or to a point of order. Unless in the opinion of the Chairman it would not be appropriate or desirable to time limit speeches on any topic to be discussed having regard to its nature, complexity or importance, no proposal, speech or any reply may exceed three minutes. In the interests of time, the Chairman may, in his or her absolute discretion, limit the number of replies, questions or speeches which are heard at any one Members' meeting.

1.17. A person who has already spoken on a matter at a Members' meeting may not speak again at that meeting in respect of the same matter except (i) in exercise of a right of reply, or (ii) on a point of order.

1.18. The Board of Directors shall cause minutes to be made and kept, in writing, of all proceedings at Members' meetings.