

AUTHORISATION

of

HUMBER NHS FOUNDATION TRUST

(pursuant to section 35 of the National Health Service Act 2006)



Signature:

William May

1 February 2010

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PART 1 Authorisation

1. Monitor ("Monitor"), the Independent Regulator of NHS Foundation Trusts, in exercise of the powers conferred by section 35 of the National Health Service 2006 ("**the Act**") and all other powers exercisable by Monitor, hereby authorises Humber Mental Health Teaching NHS Trust to become an NHS Foundation Trust ("**the Trust**"), subject to the Conditions set out in Part 3 hereof.
2. This Authorisation shall come into force on 1 February 2010.
3. Subject to the provisions of sections 54 and 55 of the Act, this Authorisation shall be of unlimited duration.
4. This Authorisation is not assignable.
5. Monitor may vary the Conditions of this Authorisation.

PART 2 Interpretation and construction

1. Words and expressions used in the Authorisation shall be construed as if they were in an Act of Parliament and the Interpretation Act 1978 applied to them.
2. Any reference to an enactment shall include any re-enactment thereof or amendment thereto.
3. Words and expressions defined in the Act shall have the same meaning when used in this Authorisation.
4. Unless otherwise specified, any reference to a numbered Condition (with or without a suffix letter) or Schedule is a reference to the Condition or Schedule bearing that number in this Authorisation.
5. In construing the provisions of this Authorisation, the heading or title of any Part, Condition or Schedule shall be disregarded.
6. Where any obligation of the Trust is required to be performed by a specified date or within a specified period, and where the Trust has failed so to perform, such obligation shall continue to be binding and enforceable after the specified date or after the expiry of the specified period.
7. In this Authorisation:
 - “ancillary services” means services which support the provision of the mandatory goods and services listed in Schedule 2.
 - “property” is land and buildings owned or leased by the Trust.
 - “the Board of Directors” means the Board of Directors of the Trust.
 - “the provision of goods and services for purposes related to the provision of health care” includes the provision of social care services.
 - “high security psychiatric services” has the same meaning as in section 4 of the Act.

PART 3 Conditions

1. Principal Purpose

The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England. This does not preclude the provision of cross-border services to other parts of the United Kingdom.

2. General duty

The Trust shall exercise its functions effectively, efficiently and economically.

3. Constitution

(1) The Trust may make amendments to its constitution with the approval of Monitor.

(2) The constitution, incorporating any amendments which may be made thereto, is annexed at Schedule 1.

4. Compliance and enforcement

(1) The Trust shall comply with:

any requirements imposed on it under the Act or any other enactment;

the Conditions of this Authorisation;

the terms of its constitution;

if applicable, directions issued by the Secretary of State with respect to safety and security in connection with the provision of high security psychiatric services; and

the terms of its contracts with bodies which commission the Trust to provide goods and services (including education and training, accommodation and other facilities) for the purposes of the health service in England.

(2) The Trust shall comply with any guidance issued by Monitor, unless Monitor has agreed with the Trust that, in the particular circumstances, the Trust is not required to comply.

(3) A failure to comply may result in Monitor taking enforcement action under sections 52, 53 or 54 of the Act.

5. Governance

(1) The Trust shall ensure the existence of appropriate arrangements to provide representative and comprehensive governance in accordance with the Act and to maintain the organisational capacity necessary to deliver the mandatory

goods and services referred to in Condition 7(1) and listed in Schedule 2 and the mandatory education and training referred to in Condition 7(2) and listed in Schedule 3.

- (2) The Trust shall comply with the principles of best practice applicable to corporate governance in the NHS/health sector, with any relevant code of practice and with any guidance which may be issued by Monitor.

6. Health care and other standards

- (1) The Trust shall put and keep in place and comply with arrangements for the purpose of monitoring and improving the quality of health care provided by and for the Trust.
- (2) The Trust shall comply with statements of standards in relation to the provision of health care published by the Secretary of State under section 46 of the Health and Social Care (Community Health and Standards) Act 2003, as currently set out in the Department of Health publication Health and Social Care Standards and Planning Framework (July 2004) as may be amended from time to time.
- (3) If applicable, the Trust shall comply with any statements of standards with respect to social care services which the Secretary of State may issue from time to time.
- (4) If applicable, the Trust shall comply with any statements of standards with respect to security and risk management which the Secretary of State may issue from time to time.

7. Mandatory Services

- (1) The Trust is required to provide for the purposes of the health service in England the goods and services listed in Schedule 2 in the volumes or amounts specified therein ("**mandatory goods and services**") which goods and services in the volumes or amounts specified are to be provided pursuant to a legally binding contract or contracts between the Trust and one or more of the commissioning bodies, or on the understanding that the Trust and the relevant commissioning body or bodies will conclude a legally binding contract or contracts for the provision of said goods and services in the volumes or amounts specified within 12 months of the date on which this authorisation comes into force. This requirement includes an obligation to provide any ancillary services, accommodation and other facilities related to said goods and services and which are generally accepted to be required for the effective, efficient and economic provision of said goods and services in the volumes or amounts specified.
- (2) The Trust is required to provide education and training to third parties for the purposes of the health service in England listed in Schedule 3 in the volumes or amounts specified therein ("**mandatory education and training**"), which are to be provided pursuant to a legally binding contract or contracts between the Trust and one or more of the commissioning bodies, or on the understanding that the Trust and the relevant commissioning body or bodies will conclude a legally binding contract or contracts for the provision of said education and training in the volumes or amounts specified within 12 months of the date on which this authorisation comes into force.

- (3) Monitor reserves the right to vary the goods and services and the volumes or amounts thereof which the Trust is required to provide in terms of Condition 7(1) and the education and training to third parties and the volumes or amounts thereof which the Trust is required to provide in terms of Condition 7(2), in particular in order to ensure the continuity of local service provision and the fulfilment of local health needs as they may vary from time to time.
- (4) The Board of Directors of the Trust shall regularly review and shall at all times maintain and ensure the capacity and capability of the Trust to provide the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.

8. Authorised Services

- (1) The Trust is authorised to provide goods and services (including education and training, accommodation and other facilities) for purposes related to the provision of health care, subject to written confirmation to Monitor by the Board of Directors that the Board of Directors is satisfied that the Trust has the capacity and the capability to provide said goods and services and that the provision of said goods and services will not inhibit the provision by the Trust of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.
- (2) Monitor reserves the right to refuse to authorise specific goods and services in circumstances where Monitor is not satisfied that the Board of Directors has a proper basis for the written confirmation referred to in Condition 8(1).
- (3) The Trust shall establish and maintain an up to date register of the goods and services referred to in Condition 8(1). With respect to education and training, only education and training provided to third parties shall be included in the register. Accommodation and other facilities do not require to be included in the register of goods and services.
- (4) The Trust shall make the register of goods and services available for public inspection on payment of such reasonable fee, if any, as the Trust may determine.
- (5) The Trust is authorised to carry out research in connection with the provision of health care, subject to written confirmation to Monitor by the Board of Directors that the Board of Directors is satisfied that the Trust has the capacity and the capability to provide said research, that all relevant authorisations with respect to the carrying out of said research have been secured, that the said research will be carried out in accordance with the generally accepted ethical standards and that the said research will not inhibit the provision by the Trust of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2.
- (6) Monitor reserves the right to refuse to authorise research in circumstances where Monitor is not satisfied that the Board of Directors has a proper basis for the written confirmation referred to in Condition 8(5).
- (7) The Trust is authorised to make facilities and staff available for the purposes of education, training or research carried on by others.

- (8) Any activities undertaken by the Trust, other than the provision of goods and services for purposes related to the provision of health care, shall be subject to any restrictions which may be imposed by Monitor in terms of section 43(3) of the Act.

9. Protection of property

- (1) Property needed for the purposes of providing any of the mandatory goods and services referred to in Condition 7(1) and listed in Schedule 2 (including the ancillary services, accommodation and other facilities related thereto) and the mandatory training and education referred to in Condition 7(2) and listed in Schedule 3 is protected.
- (2) The Trust may not dispose any protected property without the approval of Monitor.
- (3) The Trust shall establish and maintain an asset register in respect of protected property, in accordance with guidance to be issued by Monitor.
- (4) The Trust shall make the asset register available for public inspection on payment of such reasonable fee, if any, as the Trust may determine.

10. Private health care

The proportion of total income of the Trust in any financial year derived from private charges shall not be greater than the percentage set out in Schedule 4.

11. Limit on borrowing

- (1) The total amount of the Trust's borrowing is subject to the limit set out in Schedule 5 and the principles set out in the Prudential Borrowing Code for NHS Foundation Trusts.
- (2) The limit is subject to annual review by Monitor.

12. Financial viability

The Trust shall at all times remain a going concern as defined by relevant accounting standards in force from time to time.

13. Dividend payments on Public Dividend Capital

The Trust shall be required to pay annually to the Department of Health a dividend on its Public Dividend Capital at a rate to be determined from time to time by the Secretary of State.

14. Information

The Trust shall disclose to Monitor and directly to any third parties as may be specified by the Secretary of State the information, if any, specified in Schedule 6 as may be varied from time to time and such other information as Monitor may from time to time require.

15. Entry and inspection of premises

The Trust shall allow Monitor, any member, officer or member of staff of Monitor, and any agent acting on behalf of Monitor, to enter and inspect premises owned or controlled by the Trust.

16. Fees

The Trust shall pay to Monitor such reasonable annual fee, if any, as may be determined by Monitor.

17. Representative membership

The Trust shall continue to take such reasonable steps (as may be required by Monitor, by such date or within such period as may be specified by Monitor), to secure that (taken as a whole) the actual membership of any public constituency and (if there is one) the patients' constituency is representative of those eligible for such membership.

18. Co-operation with other bodies

(1) The Trust shall co-operate with Primary Care Trusts, Strategic Health Authorities, Special Health Authorities, the Care Quality Commission, NHS foundation trusts, other NHS trusts and other health authorities and organisations in accordance with the Act and any future guidance to be published by Monitor.

(2) The Trust shall co-operate with the Care Quality Commission, the National Oversight Group for High Security Hospitals and such other bodies (as may be specified in any future guidance to be published by Monitor) which have a remit covering activities related to the provision of mental healthcare services.

(3) The Trust shall co-operate with local authorities in the exercise of its own functions and in the exercise by the local authorities of their respective functions.

19. Emergency planning

The Trust shall assist the relevant authorities with, and participate in, local and national emergency planning and provision.

20. Information technology

The Trust shall participate in the national programme for information technology, in accordance with any guidance issued by Monitor.

21. Audit committee

(1) The Trust shall establish a committee of non-executive directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate.

(2) The Board of Directors shall satisfy itself that at least one member of the audit committee has recent and relevant financial experience.

22. Audit

- (1) The Audit Code for NHS Foundation Trusts (“the Audit Code”) contains the directions of Monitor under paragraph 24(5) of Schedule 7 to the Act with respect to the standards, procedures and techniques to be adopted by the auditor.
- (2) The Trust shall comply with the Audit Code.
- (3) The auditor shall comply with the Audit Code.

23. Public interest reporting

The Trust shall forward a report to Monitor within thirty days (or such shorter period as Monitor may specify) of the auditor issuing a public interest report in terms of Schedule 10 paragraph 3 of the Act. The report shall include details of the Trust’s response to the issues raised within the public interest report.

24. Notification

The Trust shall deal with Monitor in an open and co-operative manner and shall promptly notify Monitor of anything relating to the Trust of which Monitor would reasonably expect prompt notice, including, without prejudice to the foregoing generality, any anticipated failure or anticipated prospect of failure on the part of the Trust to meet its obligations under this authorisation or any financial or performance thresholds which Monitor may specify from time to time.

25. Information given to Parliament and to Members of Parliament

In addition to any statutory requirements, the Chairman, Chief Executive or any other person giving information to Parliament or to a Member of Parliament on behalf of a Trust shall ensure that they comply with the standards expected of Ministers of the Crown with regard to openness of dealings, the giving of accurate and truthful information and the correction of any inadvertent error at the earliest opportunity. Any question submitted to the Trust by a Member of Parliament shall be responded to by the Trust within the same timescale as that expected of Ministers with respect to Parliamentary questions.

26. Co-operation and Competition Panel

The Co-operation and Competition Panel (CCP) will advise Monitor on issues involving the Principles and Rules for Co-operation and Competition and NHS foundation trusts. In response to that advice, Monitor may issue directions to the Trust. The Trust shall comply with any such directions issued by Monitor

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 1

The Constitution (and Annexures)

Humber NHS Foundation Trust

Constitution

Humber NHS Foundation Trust Constitution

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1. Interpretation and definitions

Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006.

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

the 2006 Act is the National Health Service Act 2006.

constitution means this constitution and all annexes to it.

Monitor is the Independent Regulator of NHS Foundation Trusts, as provided by Section 31 of the 2006 Act.

terms of Authorisation are the terms of authorisation issued by Monitor under Section 35 of the 2006 Act.

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

appointed governors are those governors appointed by the appointing organisation

director means a member of the board of directors

elected governors are those governors elected by the public and staff constituencies

member means a member of the trust

applicant NHS trust is Humber Mental Health Teaching NHS Trust

trust secretary means the secretary of the trust or any person appointed to perform the duties of the Secretary of the trust

voluntary organisation is a body, other than a public or local authority, the activities of which are carried on not for profit

2. Name

The name of the foundation trust is Humber NHS Foundation Trust (the trust).

3. Principal purpose

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

4. Powers

- 4.1 The powers of the trust are set out in the 2006 Act, subject to any restrictions in the terms of Authorisation.
- 4.2 The powers of the trust shall be exercised by the Board of Directors on behalf of the trust.
- 4.3 Any of these powers may be delegated to a committee of directors or to an executive director.

5. Membership and constituencies

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

- 5.1 a public constituency
- 5.2 a staff constituency

6. Application for membership

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

7. Public Constituency

- 7.1 An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a member of the trust.
- 7.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as 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 staff constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.
- 8.3** Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.4** The minimum number of members in the Staff Constituency is specified in Annex 2.

Automatic membership by default – staff

- 8.5** An individual who is:
- 8.5.1** eligible to become a member of the Staff Constituency, and
 - 8.5.2** invited by the trust to become a member of the Staff Constituency

shall become a member of the trust as a member of the Staff Constituency without an application being made, unless he informs the trust that he does not wish to do so.

9. Restriction on membership

- 9.1** An individual who is a member of a constituency, or of an area within a constituency, may not while membership of that constituency or area continues, be a member of any other constituency or area.
- 9.2** 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.
- 9.3** An individual must be at least 14 years old to become a member of the trust.
- 9.4** Further provisions as to the circumstances in which an individual may not become or continue as a member of the trust are set out in Annex 8 – Further Provisions.]

10 Governors' Assembly – composition

- 10.1 The trust is to have a Board of Governors, to be known as a Governors' Assembly, which shall comprise both elected and appointed governors.
- 10.2 The composition of the Governors' Assembly is specified in Annex 3.
- 10.3 The members of the Governors' Assembly, other than the appointed members, shall be chosen by election by their constituency or, where there are areas within a constituency, by their area within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each area of each constituency, is specified in Annex 3.

11. Governors' Assembly – election of governors

- 11.1 Elections for elected members of the Governors' Assembly shall be conducted in accordance with the Model Election Rules.
- 11.2 The Model Election Rules as published from time to time by the Department of Health form part of this constitution. The Model Election Rules current at the date of the trust's Authorisation are attached at Annex 4.
- 11.3 A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this constitution for the purposes of paragraph 40 of the constitution (amendment of the constitution) or paragraph 3 of Annex 8.
- 11.4 An election, if contested, shall be by secret ballot.

12. Governors' Assembly - tenure

- 12.1 An elected governor may hold office for a period of up to 3 years.
- 12.2 An elected governor shall cease to hold office if he ceases to be a member of the constituency or area by which he was elected.
- 12.3 An elected governor shall be eligible for re-election at the end of his term.
- 12.4 An appointed governor may hold office for a period of up to 3 years.
- 12.5 An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him.
- 12.6 An appointed governor shall be eligible for re-appointment at the end of his term.

13. Governors' Assembly – disqualification and removal

13.1 The following may not become or continue as a member of the Governors' Assembly:

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

13.1.2 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;

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

13.2 Governors must be at least 18 years of age at the date they are nominated for election or appointment.

13.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Governors' Assembly are set out in Annex 5

13.4 Where a person has been elected or appointed to be a governor and he becomes disqualified for appointment under 13.1 or 13.3 he shall notify the Trust Secretary in writing of such disqualification.

13.5 If it comes to the notice of the Trust Secretary at the time of his appointment or later that the governor is disqualified, the Trust Secretary shall immediately declare that the person in question is disqualified and notify him in writing to that effect. Upon receipt of such a notification, that person's tenure of office shall be terminated.

14. Governors' Assembly – meetings of governors

14.1 The Chairman of the trust (i.e. the Chairman of the Board of Directors, appointed in accordance with the provisions of paragraph 21.1 or paragraph 22.1 below) or, in his absence the Deputy Chairman (appointed in accordance with the provisions of paragraph 23 below) shall preside at meetings of the Governors' Assembly.

14.2 Meetings of the Governors' Assembly shall be open to members of the public. Members of the public may be excluded from a meeting, or part of a meeting, for special reasons which shall include, but not

be limited to, matters of patient, staff, other personal or commercial confidentiality or anticipated or actual litigation

15. Governors' Assembly – standing orders

The standing orders for the practice and procedure of the Board of Governors are attached at Annex 6.

16. Governors' Assembly - conflicts of interest of governors

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

17. Governors' Assembly – travel expenses

The trust may pay travelling and other expenses to members of the Governors' Assembly at rates determined by the trust.

18. Governors' Assembly – further provisions

Further provisions with respect to the Governors' Assembly are set out in Annex 5

19. Board of Directors – composition

19.1 The trust is to have a Board of Directors, which shall comprise both executive and non-executive directors.

19.2 The Board of Directors is to comprise:

19.2.1 a non-executive Chairman

19.2.2 up to 6 other non-executive directors; and

19.2.3 up to 6 executive directors.

19.3 One of the executive directors shall be the Chief Executive.

19.4 The Chief Executive shall be the Accounting Officer.

19.5 One of the executive directors shall be the finance director.

- 19.6 One of the executive directors is to be a registered medical practitioner
- 19.7 One of the executive directors is to be a registered nurse
- 19.8 The operation of 19.2 above shall be such that, at all times, at least half of the Board of Directors, excluding the Chairman, shall be non-executive directors

20. Board of Directors – qualification for appointment as a non-executive director

A person may be appointed as a non-executive director only if –

- 20.1 he is a member of the Public Constituency, or
- 20.2 he is not disqualified by virtue of paragraph 26 below
- 20.3 he is not disqualified by virtue of the further provisions as set out in Annex 8

21. Board of Directors – appointment and removal of chairman and other non-executive directors

- 21.1 The Governors' Assembly at a general meeting of the Governors' Assembly shall appoint or remove the chairman of the trust and the other non-executive directors.
- 21.2 Removal of the chairman or another non-executive director shall require the approval of three-quarters of the members of the Governors' Assembly
- 21.3 The initial chairman and the initial non-executive directors are to be appointed in accordance with paragraph 22 below.

22. Board of Directors – appointment of initial chairman and initial other non-executive directors

- 22.1 The Governors' Assembly shall appoint the chairman of the applicant NHS Trust as the initial chairman of the trust, if he wishes to be appointed.
- 22.2 The power of the Governors' Assembly to appoint the other non-executive directors of the trust is to be exercised, so far as possible, by appointing as the initial non-executive directors of the trust any of the non-executive directors of the applicant NHS Trust (other than the Chairman) who wish to be appointed.

22.3 The criteria for qualification for appointment as a non-executive director set out in paragraph 20 above (other than disqualification by virtue of paragraph 26 below) do not apply to the appointment of the initial chairman and the initial other non-executive directors in accordance with the procedures set out in this paragraph.

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

23. Board of Directors – appointment of deputy chairman

The Governors' Assembly at a general meeting of the Governors' Assembly shall appoint one of the non-executive directors as a deputy chairman.

24. Board of Directors - appointment and removal of the Chief Executive and other executive directors

24.1 The non-executive directors shall appoint or remove the Chief Executive.

24.2 The appointment of the Chief Executive shall require the approval of the Governors' Assembly.

24.3 The initial Chief Executive is to be appointed in accordance with paragraph 25 below.

24.4 A committee consisting of the Chairman, the Chief Executive and the other non-executive directors shall appoint or remove the other executive directors.

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

25.1 The non-executive directors shall appoint the chief officer of the applicant NHS Trust as the initial Chief Executive of the trust, if he wishes to be appointed.

25.2 The appointment of the chief officer of the applicant NHS trust as the initial Chief Executive of the trust shall not require the approval of the Governors' Assembly.

26. Board of Directors – disqualification

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

- 26.1** a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
- 26.2** 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.
- 26.3** a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

27. Board of Directors – standing orders

The standing orders for the practice and procedure of the Board of Directors are attached at Annex 7.

28 Board of Directors - conflicts of interest of directors

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 proposed contract or other matter which is under consideration or is to be considered by the Board of Directors, the director shall disclose that interest to the members of the Board of Directors as soon as he becomes aware of it. The Standing Orders for the Board of Directors shall make provision for the disclosure of interests and arrangements for the exclusion of a director declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

29. Board of Directors – remuneration and terms of office

- 29.1** The Governors' Assembly at a general meeting of the Governors' Assembly shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and the other non-executive directors.
- 29.2** The trust shall establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other executive directors.

30. Registers

The trust shall have:

- 30.1 a register of members showing, in respect of each member, the constituency to which he belongs and, where there are areas within it, the area to which he belongs;
- 30.2 a register of members of the Governors' Assembly;
- 30.3 a register of interests of governors;
- 30.4 a register of directors; and
- 30.5 a register of interests of the directors.

31 Admission to and removal from the registers

- 31.1 The Trust Secretary shall add to the register of members the name of any member who is accepted under the provisions of this constitution
- 31.2 The Trust Secretary shall remove from the register the name of any member who ceases to be entitled to be a member under the provisions of this constitution

32. Registers – inspection and copies

- 32.1 The trust shall make the registers specified in paragraph 30 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.
- 32.2 The trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the trust, if the member so requests
- 32.3. So far as the registers are required to be made available:
 - 32.3.1 they are to be available for inspection free of charge at all reasonable times; and
 - 32.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.
- 32.4 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.

33. Documents available for public inspection

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

33.1.1 a copy of the current constitution;

33.1.2 a copy of the current authorisation;

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

33.1.4 a copy of the latest annual report;

33.1.5 a copy of the latest information as to its forward planning; and

33.1.6 a copy of any notice given under section 52 of the 2006 Act.

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

33.3 If the person requesting a copy or extract is not a member of the trust, the trust may impose a reasonable charge for doing so.

34 Auditor

34.1 The trust shall have an auditor.

34.2 The Governors' Assembly shall appoint or remove the auditor at a general meeting of the Governors' Assembly.

35. Audit committee

The trust shall establish a committee of non-executive directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate.

36. Accounts

36.1 The trust shall keep accounts in such form as Monitor may with the approval of HM Treasury direct.

36.2 The accounts are to be audited by the trust's auditor.

36.3 The trust shall prepare in respect of each financial year annual accounts in such form as Monitor may with the approval of the HM Treasury direct.

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

37 Annual report and forward plans

37.1 The trust shall prepare an Annual Report and send it to Monitor.

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

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

37.4 In preparing the document, the directors shall have regard to the views of the Governors' Assembly.

38. Meeting of Governors' Assembly to consider annual accounts and reports

The following documents are to be presented to the Governors' Assembly at a general meeting of the Governors' Assembly:

38.1 the annual accounts

38.2 any report of the auditor on them

38.3 the annual report.

39. Instruments

39.1 The trust shall have a seal.

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

40. Amendment of the constitution

40.1 Amendments by the trust of its constitution are to be made with the approval of Monitor. For the avoidance of doubt, any amendments to the annexes attached to this constitution must also be approved by Monitor.

ANNEX 1 – THE PUBLIC CONSTITUENCY

Name of Areas within the Constituency	Area	Minimum Number of Members	Number of Governors
Hull	The electoral wards of Hull	100	6
East Riding of Yorkshire	The electoral wards of East Riding of Yorkshire	100	7
Wider Yorkshire and Humber Area	The electoral wards of the rest of the area covered by the Yorkshire and the Humber Strategic Health Authority	15	1

ANNEX 2 – THE STAFF CONSTITUENCY

Name of Constituency	Membership	Minimum number of members	No of Governors
Staff	All eligible staff employed by Trust and others identified who exercise functions for the purposes of the Trust.	200	3

ANNEX 3 – COMPOSITION OF GOVERNORS’ ASSEMBLY

ELECTED GOVERNORS

CONSTITUENCY	NUMBER OF GOVERNORS
PUBLIC – HULL AREA	6
PUBLIC - EAST RIDING OF YORKSHIRE AREA	7
PUBLIC – WIDER YORKSHIRE AND HUMBER AREA	1
STAFF	3
TOTAL ELECTED	17

APPOINTED GOVERNORS

TYPE	SPONSOR	NUMBER OF GOVERNORS
PCT	NHS EAST RIDING OF YORKSHIRE	1
PCT	NHS HULL	1
LOCAL AUTHORITY	HULL CITY COUNCIL	1
LOCAL AUTHORITY	EAST RIDING OF YORKSHIRE COUNCIL	1
UNIVERSITY	UNIVERSITY OF HULL - HULL YORK MEDICAL SCHOOL	1
PARTNERSHIP –	HUMBERSIDE POLICE	1
PARTNERSHIP –	VOLUNTARY SECTOR – NORTH BANK FORUM	2
PARTNERSHIP – ACUTE SECTOR	HULL AND EAST YORKSHIRE HOSPITALS NHS TRUST	1
TOTAL APPOINTED		9

ALL GOVERNORS

TOTAL GOVERNORS’ ASSEMBLY	26
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Part 2 – Timetable for Election

2. Timetable
3. Computation of time

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4. Returning officer
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Part 1 – Interpretation

1. Interpretation

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

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

“election” means an election by a constituency, or by an area within a constituency to fill a vacancy among one or more posts on the Governors’ Assembly;

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

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

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

Part 2 – Timetable for Election

2. Timetable

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

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

3. Computation of time

(1) In computing any period of time for the purposes of the timetable –

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

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

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

Part 3 – Returning Officer

4. Returning officer

(1) Subject to rule 64, the returning officer for an election is to be appointed by the corporation.

(2) Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

5. Staff

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

6. Expenditure

The corporation is to pay the returning officer –

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

7. Duty of co-operation

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

Part 4 - Stages Common to Contested and Uncontested Elections

8. Notice of election

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

- (a) the constituency for which the election is being held,
- (b) the number of members of the Governors' Assembly to be elected from that constituency,
- (c) the details of any nomination committee that has been established by the corporation,
- (d) the address and times at which nomination papers may be obtained;
- (e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,
- (f) the date and time by which any notice of withdrawal must be received by the returning officer
- (g) the contact details of the returning officer, and
- (h) the date and time of the close of the poll in the event of a contest.

9. Nomination of candidates

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

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

10. Candidate's particulars

- (1) The nomination paper must state the candidate's –
 - (a) full name,
 - (b) contact address in full, and
 - (c) constituency, or area within a constituency, of which the candidate is a member.

11. Declaration of interests

The nomination paper must state –

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

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

12. Declaration of eligibility

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

- (a) that he or she is not prevented from being a member of the Governors' Assembly by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the constitution; and,
- (b) for a member of the public constituency, of the particulars of his or her qualification to vote as a member of that constituency, or area within that constituency, for which the election is being held.

13. Signature of candidate

The nomination paper must be signed and dated by the candidate, indicating that –

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

14. Decisions as to the validity of nomination

(1) Where a nomination paper is received by the returning officer in accordance with these rules, the candidate is deemed to stand for election unless and until the returning officer –

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

(2) The returning officer is entitled to decide that a nomination paper is invalid only on one of the following grounds –

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

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

(4) Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination paper, stating the reasons for their decision.

(5) The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate's nomination paper.

15. Publication of statement of candidates

(1) The returning officer is to prepare and publish a statement showing the candidates who are standing for election.

(2) The statement must show –

- (a) the name, contact address, and constituency, or area within a constituency, of each candidate standing, and
- (b) the declared interests of each candidate standing,

as given in their nomination paper.

(3) The statement must list the candidates standing for election in alphabetical order by surname.

(4) The returning officer must send a copy of the statement of candidates and copies of the nomination papers to the corporation as soon as is practicable after publishing the statement.

16. Inspection of statement of nominated candidates and nomination papers

(1) The corporation is to make the statements of the candidates and the nomination papers supplied by the returning officer under rule 15(4) available for inspection by members of the public free of charge at all reasonable times.

(2) If a person requests a copy or extract of the statements of candidates or their nomination papers, the corporation is to provide that person with the copy or extract free of charge.

17. Withdrawal of candidates

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

18. Method of election

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

(2) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the Governors' Assembly, those candidates are to be declared elected in accordance with Part 7 of these rules.

(3) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be Governors' Assembly, then –

- (a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and
- (b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.

Part 5 – Contested Elections

19. Poll to be taken by ballot

(1) The votes at the poll must be given by secret ballot.

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

20. The ballot paper

(1) The ballot of each voter is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.

(2) Every ballot paper must specify –

- (a) the name of the corporation,
- (b) the constituency, or area within a constituency, for which the election is being held,
- (c) the number of members of the Governors' Assembly to be elected from that constituency or area within that constituency,

- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

(3) Each ballot paper must have a unique identifier.

(4) Each ballot paper must have features incorporated into it to prevent it from being reproduced.

21. The declaration of identity (public constituency)

(1) In respect of an election for a public constituency a declaration of identity must be issued with each ballot paper.

(2) The declaration of identity is to include a declaration –

- (a) that the voter is the person to whom the ballot paper was addressed,
- (b) that the voter has not marked or returned any other voting paper in the election, and
- (c) for a member of the public constituency, of the particulars of that member's qualification to vote as a member of the constituency, or area within a constituency, for which the election is being held.

(3) The declaration of identity is to include space for –

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter's signature, and
- (d) the date that the declaration was made by the voter.

(4) The voter must be required to return the declaration of identity together with the ballot paper.

(5) The declaration of identity must caution the voter that, if it is not returned with the ballot paper, or if it is returned without being correctly completed, the voter's ballot paper may be declared invalid.

Action to be taken before the Poll

22. List of eligible voters

(1) The corporation is to provide the returning officer with a list of the members of the constituency, or area within a constituency, for which the election is being held who are eligible to vote by virtue of rule 26 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

(2) The list is to include, for each member, a mailing address where his or her ballot paper is to be sent.

23. Notice of poll

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

- (a) the name of the corporation,
- (b) the constituency, or area within a constituency, for which the election is being held,
- (c) the number of members of the Governors' Assembly to be elected from that constituency or area within that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

24. Issue of voting documents by returning officer

(1) As soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following documents to each member of the corporation named in the list of eligible voters –

- (a) a ballot paper and ballot paper envelope,
- (b) a declaration of identity (if required),

- (c) information about each candidate standing for election, pursuant to rule 59 of these rules, and
- (d) a covering envelope.

(2) The documents are to be sent to the mailing address for each member, as specified in the list of eligible voters.

25. Ballot paper envelope and covering envelope

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

(2) The covering envelope is to have –

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

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

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

The Poll

26. Eligibility to vote

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

27. Voting by persons who require assistance

(1) The returning officer is to put in place arrangements to enable requests for assistance to vote to be made

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

28. Spoilt ballot papers

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

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

(3) The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she –

- (a) is satisfied as to the voter’s identity, and
- (b) has ensured that the declaration of identity, if required, has not been returned.

(4) After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter in a list (“the list of spoilt ballot papers”) –

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

29. Lost ballot papers

(1) Where a voter has not received his or her ballot paper by the fourth day before the close of the poll, that voter may apply to the returning officer for a replacement ballot paper.

(2) The returning officer may not issue a replacement ballot paper for a lost ballot paper unless he or she –

- (a) is satisfied as to the voter’s identity,
- (b) has no reason to doubt that the voter did not receive the original ballot paper, and
- (c) has ensured that the declaration of identity if required has not been returned.

(3) After issuing a replacement ballot paper for a lost ballot paper, the returning officer shall enter in a list (“the list of lost ballot papers”) –

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper.

30. Issue of replacement ballot paper

(1) If a person applies for a replacement ballot paper under rule 28 or 29 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue a replacement ballot paper unless, in addition to the requirements imposed rule 28(3) or 29(2), he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.

(2) After issuing a replacement ballot paper under this rule, the returning officer shall enter in a list (“the list of tendered ballot papers”) –

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper issued under this rule.

31. Declaration of identity for replacement ballot papers (public constituency)

(1) In respect of an election for a public constituency a declaration of identity must be issued with each replacement ballot paper.

(2) The declaration of identity is to include a declaration –

- (a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and
- (b) of the particulars of that member’s qualification to vote as a member of the public or patient constituency for which the election is being held.

(3) The declaration of identity is to include space for –

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter’s signature, and
- (d) the date that the declaration was made by the voter.

(4) The voter must be required to return the declaration of identity together with the ballot paper.

(5) The declaration of identity must caution the voter that if it is not returned with the ballot paper, or if it is returned without being correctly completed, the replacement ballot paper may be declared invalid.

Procedure for Receipt of Envelopes

32. Receipt of voting documents

(1) Where the returning officer receives a –

- (a) covering envelope, or
- (b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

(2) The returning officer may open any ballot paper envelope for the purposes of rules 33 and 34, but must make arrangements to ensure that no person obtains or communicates information as to –

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

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

33. Validity of ballot paper

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

(2) Where the returning officer is satisfied that paragraph (1) has been fulfilled, he or she is to –

- (a) put the declaration of identity if required in a separate packet, and
- (b) put the ballot paper aside for counting after the close of the poll.

(3) Where the returning officer is not satisfied that paragraph (1) has been fulfilled, he or she is to –

- (a) mark the ballot paper “disqualified”,
- (b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it the ballot paper,
- (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
- (d) place the document or documents in a separate packet.

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

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

- (a) mark the declaration of identity “disqualified”,
- (b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and
- (d) place the declaration of identity in a separate packet.

35. Sealing of packets

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

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

Part 6 - Counting the Votes

36. Interpretation of Part 6

In Part 6 of these rules –

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

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

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

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

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule 44(4) below,

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

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

“quota” means the number calculated in accordance with rule 41 below,

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

“stage of the count” means –

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

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

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

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule 42 below.

37. Arrangements for counting of the votes

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

38. The count

(1) The returning officer is to –

- (a) count and record the number of ballot papers that have been returned, and
- (b) count the votes according to the provisions in this Part of the rules.

(2) The returning officer, while counting and recording the number of ballot papers and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper.

(3) The returning officer is to proceed continuously with counting the votes as far as is practicable.

39. Rejected ballot papers

(1) Any ballot paper –

- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
- (b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,
- (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (d) which is unmarked or rejected because of uncertainty,

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

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

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

40. First stage

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

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

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

41. The quota

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

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

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule 44 has been complied with.

42. Transfer of votes

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

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

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

(3) The returning officer is, in accordance with this rule and rule 43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) to the candidate for whom the next available preference is given on those papers.

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

- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and

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

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

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

(6) The returning officer is, in accordance with this rule and rule 43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

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

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

whichever is the less.

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

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

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

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

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

43. Supplementary provisions on transfer

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

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

(2) The returning officer shall, on each transfer of transferable papers under rule 42 above –

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

(3) All ballot papers transferred under rule 42 or 44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule 42 or 44 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

44. Exclusion of candidates

(1) If —

- (a) all transferable papers which under the provisions of rule 42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule 45 below, one or more vacancies remain to be filled,

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

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

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

(3) The returning officer shall, in accordance with this rule and rule 43 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

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

(5) If, subject to rule 45 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

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

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

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

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

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

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

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule 42 and rule 43.

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

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

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

45. Filling of last vacancies

- (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.
- (2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.
- (3) Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

46. Order of election of candidates

- (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule 42(10) above.
- (2) A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.
- (3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.
- (4) Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

Part 7 – Final Proceedings in Contested and Uncontested Elections

47. Declaration of result for contested elections

- (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to —
 - (a) declare the 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 Humber Mental Health

Teaching NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or

- (ii) in any other case, to the chairman of the corporation, and
- (a) give public notice of the name of each candidate who he or she has declared elected.

(2) The returning officer is to make –

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (b) the number of rejected ballot papers under each of the headings in rule 39(1),

available on request.

48. Declaration of result for uncontested elections

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

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

Part 8 – Disposal of Documents

49. Sealing up of documents relating to the poll

(1) On completion of the counting at a contested election, the returning officer is to seal up the following documents in separate packets –

- (a) the counted ballot papers,
- (b) the ballot papers endorsed with “rejected in part”,

- (c) the rejected ballot papers, and
- (d) the statement of rejected ballot papers.

(2) The returning officer must not open the sealed packets of –

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

(3) The returning officer must endorse on each packet a description of –

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

50. Delivery of documents

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

51. Forwarding of documents received after close of the poll

Where –

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

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

52. Retention and public inspection of documents

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

(2) With the exception of the documents listed in rule 53(1), the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

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

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

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

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

by any person without the consent of the Regulator.

(2) A person may apply to the Regulator to inspect any of the documents listed in (1), and the Regulator may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

(3) The Regulator's consent may be on any terms or conditions that it thinks necessary, including conditions as to –

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (c) production or opening,

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

- (4) On an application to inspect any of the documents listed in paragraph (1), –
- (a) in giving its consent, the regulator, and
 - (b) and making the documents available for inspection, the corporation,
- must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –
- (i) that his or her vote was given, and
 - (ii) that the regulator has declared that the vote was invalid.

Part 9 – Death of a Candidate during a Contested Election

54. Countermand or abandonment of poll on death of candidate

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

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

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

Part 10 – Election Expenses and Publicity

Election Expenses

55. Election expenses

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

56 Expenses and payments by candidates

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

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

57. Election expenses incurred by other persons

(1) No person may –

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

(2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

Publicity

58. Publicity about election by the corporation

(1) The corporation may –

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

as it considers necessary.

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

- (a) objective, balanced and fair,
- (b) equivalent in size and content for all candidates,

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

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

59. Information about candidates for inclusion with voting documents

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

(2) The information must consist of –

- (a) a statement submitted by the candidate of no more than 250 words, and
- (b) a photograph of the candidate.

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

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

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

Part 11 – Questioning Elections and the Consequence of Irregularities

61. Application to question an election

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

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

- (3) An application may only be made to the Regulator by –
- (a) a person who voted at the election or who claimed to have had the right to vote, or
 - (b) a candidate, or a person claiming to have had a right to be elected at the election.
- (4) The application must –
- (a) describe the alleged breach of the rules or electoral irregularity, and
 - (b) be in such a form as the Regulator may require.
- (5) The application must be presented in writing within 21 days of the declaration of the result of the election.
- (6) If the Regulator requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- (7) The Regulator shall delegate the determination of an application to a person or persons to be nominated for the purpose of the Regulator.
- (8) The determination by the person or persons nominated in accordance with Rule 61(7) shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency including all the candidates for the election to which the application relates.
- (9) The Regulator may prescribe rules of procedure for the determination of an application including costs.

Part 12 – Miscellaneous

62. Secrecy

- (1) The following persons –
- (a) the returning officer,
 - (b) the returning officer's staff,
- must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to –
- (i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,
 - (ii) the unique identifier on any ballot paper,
 - (iii) the candidate(s) for whom any member has voted.

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

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

63. Prohibition of disclosure of vote

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

64. Disqualification

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

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

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

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

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

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

ANNEX 5 – ADDITIONAL PROVISIONS – GOVERNORS’ ASSEMBLY

1 Governors’ Assembly – Further Provisions on disqualification and removal

Further to the provisions set out in 13.1 the following may not become or continue as a member of the Governors’ Assembly;

- 1.1 a person who has been dismissed in previous 5 years from any NHS body (except for redundancy or sickness);
- 1.2 a person whose tenure of office as a Chairman, NED or governor of an NHS body has previously been terminated on the grounds that his appointment is not in the interests of the NHS for non attendance at meetings or for non disclosure of a pecuniary interest;
- 1.3 a person who is a governor, NED, Chairman or Chief Executive of another NHS Foundation Trust; (this does not apply to a partnership governor appointed by a partnership organisation to be a governor of this Trust)
- 1.4 a person who has previously been or is currently subject to a sex offender order and/or required to register under the Sex Offences Act 2003 or committed a sexual offence prior to the requirement to register under current legislation;
- 1.5 a person who is a vexatious complainant of the Trust;
- 1.6 a person who has had his name removed, from any list prepared under Part II of the Health Service Act 1977 in accordance with section 49 of that Act or has otherwise been suspended or disqualified from any healthcare profession, and has not subsequently had his name included in such a list or had their suspension lifted or qualification re-instated;
- 1.7 a person who is currently a member of an independent scrutiny body whose role includes or will include independent scrutiny of Humber NHS Foundation Trust;
- 1.8 a person who is a spouse, partner, parent or child of a director or the Chairman of the Trust,
- 1.9 a person who is under 18 years of age
- 1.9 a person who on the basis of disclosures obtained through an application to the Criminal Records Bureau is not considered suitable by the Trust.

2 Termination of Tenure

In addition to 12.2 and 13.1 and 13.3 the following apply;

- 2.1 A governor may resign from that office at any time during the term of office by giving notice in writing to the Trust Secretary;
- 2.2 If a governor fails to attend 3 consecutive meetings of the Governors' Assembly his tenure of office is to be terminated immediately unless the other governors are satisfied that;
 - the absence was due to reasonable cause; and
 - he will be able to start attending meetings of the Trust again within such a period as they consider reasonable.
- 2.3 The Governors' Assembly may terminate the tenure of a governor by a three quarter majority of those voting if it is satisfied that he;
 - fails to adhere to the Trust's 'Governors Code of Conduct'; and/or
 - persists in acting in a manner prejudicial to the best interests of the Trust.
- 2.4 An appointed governor will cease to hold office if the appointing authority terminate their sponsorship of the individual.

3 Vacancies on Governors' Assembly

Where a vacancy occurs on the Governors' Assembly:

- 3.1 Elected governors will be replaced for the remainder of the current term of office by the candidate in the same area or constituency (in the case of a staff governor) with the next highest vote at the last election, providing they are willing. If the vacancy cannot be filled by this method and there is at least one year left to run in that term then a by-election will be held to elect a new governor. Their initial term of office will be the maximum period until a main election consistent with not exceeding the three year limit on tenure
- 3.2 Appointed governors will be replaced by the sponsoring authority/organisation and a new term of office shall begin.

ANNEX 6 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE GOVERNORS’ ASSEMBLY

Standing Orders for Governors’ Assembly Meetings

1 Calling Meetings

- 1.1 The Governors’ Assembly is to meet at least four times in each financial year.
- 1.2 One of these meetings will be an annual meeting which will be held prior to 31 October each year
- 1.3 Ordinary meetings of the Governors’ Assembly may be called at any time by the Chairman.
- 1.4 One third or more of the Governors’ Assembly may requisition a meeting in writing to the Chairman specifying the business to be carried out. If the Chairman refuses to organise a meeting, or within fourteen days of the requisition being presented fails to organise a meeting, the governors signing the requisitioning may forthwith call a meeting.

2 Notice of Meetings and Business to be Transacted

- 2.3 The Trust Secretary shall give at least 30 days notice of the date and place of every meeting of the Governors’ Assembly to each governor. This notice should also specify the business proposed to be transacted and should be signed by the Chairman or by a person authorised by the Chairman to sign on their behalf
- 2.4 In the case of a meeting called by governors in default of the Chairman calling the meeting the notice should be signed by those governors.

3 Agenda and Supporting Papers

- 3.3 The Agenda will be sent out to governors 5 working days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be dispatched no later than three clear days before the meeting.
- 3.4 Before each meeting of the Governors’ Assembly a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trusts HQ at least three days before the meeting

4 Setting the Agenda

- 4.1 A governor or director desiring a matter to be included on the agenda will make his request in writing to the Chairman at least 10 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 10 days may be included at the discretion of the Chairman.
- 4.2 The Annual Meeting of the Governors' Assembly will consider the annual accounts; any report of the auditor on these accounts and the annual report.

5 Moving, Amending, Withdrawing and Rescinding Motions

- 5.1 A governor desiring to move or amend a motion should send a written notice thereof at least 14 working days before the meeting to the Chairman, who will include it in the agenda (where permissible under the appropriate regulations). This includes motions on the possible termination of tenure of governors as described in Annex 5. This does not prevent a motion being moved during a meeting without notice on any business mentioned on the agenda.
- 5.2 A motion or amendment once moved and seconded can be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chairman
- 5.3 Notice of a motion to amend or rescind 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 10 other governors. When such a motion has been disposed of by the Governors' Assembly it cannot be proposed again to the same effect within the next six calendar months unless the Chairman considers it appropriate
- 5.4 The proposer of a motion shall have the right of reply at the close of any discussion on the motion or any proposed amendment
- 5.5 When a motion is under discussion it shall be open to a governor to move
- An amendment to the motion
 - The adjournment of the discussion or the meeting
 - That the meeting proceed to the next business(*)
 - The appointment of an ad hoc committee to deal with the specific item of business
 - That the motion now be put(*)
 - That the public now be excluded

(*) denotes these motions may only be put by a governor who has not previously taken part in the debate

- 5.6 No amendment to a motion will be admitted if the Chairman is of the opinion it negates the substance of the motion.

6 Quorum

- 6.1 No business shall be transacted at a meeting unless at least one third of the governors is present. Of those, at least six must be public governors, at least one must be a staff governor and at least two must be appointed governors
- 6.2 If such a quorum is not present the meeting can stand adjourned to such time and place as the Trust Secretary may determine.

7 Declarations

- 7.1 An elected governor cannot vote at a meeting of the Governors' Assembly, unless immediately prior to the commencement of each meeting, he has made a declaration in the form specified by the Trust Secretary, of the particulars of their qualification to vote as a member of the Foundation Trust, and that they are not prevented from being a member of the Governors' Assembly by the conditions set out in paragraph 12.2, 13.1 or 13.3 in this constitution.

An elected governor shall be deemed to have confirmed the declaration upon attending subsequent meetings of the Governors' Assembly, and every agenda for meetings of the Governors' Assembly will draw this to the attention of the elected governors.

- 7.2 Each governor is required to declare their interests in accordance with the paragraph 16 of this constitution and the Trust policy. In the event of a material interest which has been previously declared being pertinent to a discussion or decision of a meeting of the Governors' Assembly the governor in question should

- Withdraw from the meeting and play no part in the relevant discussion or decision
- Not vote on the issue

- 7.3 Any governor who fails to disclose any interest required to be disclosed in accordance with paragraph 16 of this constitution or the Trust policy will have his tenure automatically terminated if required to do so by two thirds of the governors in accordance with paragraph 2.3 of Annex 5 of this constitution.

8 Voting

- 8.1 Every question at the meeting shall be determined by a majority of the votes of the governors present except those issues

referred to in the constitution where other than a simple majority is required.

- 8.2 In the case of an equality of votes the Chairman of the meeting will have the casting vote.
- 8.3 All questions put to the vote shall be determined by a show of hands. A paper ballot may also be used if a majority of governors present request it.

9 Minutes

- 9.1 Minutes of the meeting will be drawn up and submitted for approval at the next meeting where they will be signed by the Chairman of that meeting. These will be circulated according to the governors' wishes.
- 9.2 The names of the Chairman of the meeting and the names of those present shall be recorded in the minutes

10 Miscellaneous

- 10.1 The Governors' Assembly may invite the Chief Executive, or any other member of the Board of Directors, or a representative of the financial auditor or other advisors to attend a meeting of the Governors' Assembly.
- 10.2 The Governors' Assembly may not delegate any of its powers to a committee or sub-committee, but it may appoint committees to assist the Governors' Assembly in carrying out its functions. The Governors' Assembly may, appoint governors, and invite directors and other persons, to serve on such committees. The Governors' Assembly may, through the Trust Secretary, request that external assessors assist them or any committee they appoint in carrying out its duties.
- 10.3 If a meeting is called by governors in default of the Chairman calling a meeting, and the Chairman or nominated deputy do not attend, a governor can, with the agreement of the other governors present, take on the role of Chairman..

ANNEX 7 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS

1 Calling Meetings

- 1.1 Ordinary meetings of the Board of Directors shall be held at regular intervals at such times and places as the Board of Directors may determine.
- 1.2 The Chairman of the Trust may call a meeting of the Board of Directors at any time.
- 1.3 One third or more members of the Board of Directors may requisition a meeting in writing. If the Chairman refuses, or fails, to call a meeting within seven days of a requisition being presented, the directors signing the requisition may forthwith call a meeting.

2 Notice of Meetings and the Business to be Transacted

- 2.1 Before each meeting of the Board of Directors a written notice specifying the business proposed to be transacted shall be delivered to every director, or sent by post to the usual place of residence of each director, so as to be available at least five clear days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of service of such a notice on any director shall not affect the validity of a meeting.
- 2.2 In the case of a meeting called by directors in default of the Chairman calling the meeting, the notice shall be signed by those directors.
- 2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 6
- 2.4 A director desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 10 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 10 days before a meeting may be included on the agenda at the discretion of the Chairman.

3 Agenda and Supporting Papers

The Agenda will be sent to directors 5 working days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

4 Petitions

Where a petition has been received the Chairman shall include the petition as an item for the agenda of the next meeting.

5 Notice of Motion

5.1 Subject to the provision of Standing Orders 7 'Motions: Procedure at and during a meeting' and 8 'Motions to rescind a resolution', a member of the Board of Directors wishing to move a motion shall send a written notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chairman.

5.2 The notice shall be delivered at least 14 clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

6 Emergency Motions

6.1 Subject to the agreement of the Chairman, and subject also to the provision of Standing Order 7 'Motions: Procedure at and during a meeting', a member of the Board of Directors may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Board of Directors at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision on whether to include the item shall be final.

7 Motions: Procedure at and during a meeting

7.1 Who may Propose

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

7.2 Contents of Motions

The Chairman may exclude from the debate at their discretion any such motion of which notice was not given on the notice summoning the meeting other than a motion relating to:

- the receipt of a report;
- consideration of any item of business before the Board of Directors;
- the accuracy of minutes;
- that the Board of Directors proceed to next business;

- that the Board of Directors adjourn;
- that the question be now put.

7.3 Amendments to Motions

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

Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board of Directors.

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

7.4 Rights of Reply to Motions

- Amendments

The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment, but may not otherwise speak on it.

- Substantive/original motion

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

7.5 Withdrawing a Motion

A motion, or an amendment to a motion, may be withdrawn.

7.6 Motions once under debate

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

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' committee to deal with a specific item of business;
- that a director be not further heard;

In those cases where the motion is either that the meeting proceeds to the 'next business' or 'that the question be now put' in the interests of objectivity these should only be put forward by a member of the Board of Directors who has not taken part in the debate and who is eligible to vote.

If a motion to proceed to the next business or that the question be now put, is carried, the Chairman should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

8 Motion to Rescind a Resolution

- 8.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the director who gives it and also the signature of three other directors, and before considering any such motion of which notice shall have been given, the Board of Directors may refer the matter to any appropriate Committee or the Chief Executive for recommendation.
- 8.2 When any such motion has been dealt with by the Board of Directors it shall not be competent for any director other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

9 Chairman of Meeting

- 9.1 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 present, shall preside.
- 9.2 If the Chairman and Deputy Chairman are absent, another non executive director as the directors present shall choose shall preside.

10 Chairman's Ruling

The decision of the Chairman of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and their interpretation of the Standing Orders and Standing Financial Instructions, at the meeting, shall be final.

11 Quorum

- 11.1 No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and Board Members (including at least one executive director and one non executive director) is present.
- 11.2 An Officer in attendance for an executive director (Officer Member) but without formal acting up status may not count towards the quorum.
- 11.3 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 a declaration of a conflict of interest (see Standing Order 12) that person 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.

12 Declarations

- 12.1 Each director is required to declare their interests in accordance with paragraph 28 of this constitution and the Trust policy. In the event of a material interest which has been previously declared being pertinent to a discussion or a decision of a meeting of the Board of Directors the director in question should
- Withdraw from the meeting and play no part in the relevant discussion or decision, and:
 - Not vote on the issue.
- 12.2 A report on any non executive director who fails to disclose any interest to be disclosed in accordance with paragraph 28 of this constitution or the Trust policy will be considered by the Board of Governors in accordance with the process to remove a non-executive director.
- 12.3 A report on any executive director who fails to disclose any interest to be disclosed in accordance with paragraph 28 of this constitution or the Trust policy will be considered by a committee consisting of the Chairman, the chief executive and the non executive directors in accordance with the process to remove an executive director.

13 Voting

- 13.1 Save as provided in Standing Orders 14 - Suspension of Standing Orders and 15 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of directors present and voting on the question.

In the case of an equal vote, the person presiding (ie: the Chairman of the meeting shall have a second, and casting vote.

13.2 At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.

13.3 If at least one third of the directors present so request, the voting on any question may be recorded so as to show how each director present voted or did not vote (except when conducted by paper ballot).

13.4 If a director so requests, their vote shall be recorded by name.

13.5 In no circumstances may an absent director vote by proxy. Absence is defined as being absent at the time of the vote.

13.6 A manager who has been formally appointed to act up for an executive director during a period of incapacity or temporarily to fill an executive director vacancy shall be entitled to exercise all rights including the voting rights of the executive director.

13.7 A manager attending the Board of Directors meeting to represent an executive director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the executive director. A manager's status when attending a meeting shall be recorded in the minutes.

14 Suspension of Standing Orders

14.1 Except where this would contravene any statutory provision or the rules relating to the Quorum (SO 11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board of Directors are present (including at least one member who is an executive director and one member who is non executive director) and that at least two-thirds of those directors present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Board of Directors' minutes.

14.2 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and directors of the Trust.

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

14.4 The Audit Committee shall review every decision to suspend Standing Orders.

15 Variation and amendment of Standing Orders

These Standing Orders can only be amended in accordance with paragraph 3 of Annex 8.

16 Record of Attendance

The names of the Chairman and directors/managers present at the meeting shall be recorded.

17 Minutes

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

No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate.

18 Admission of Public and the Press

The Board of Directors meetings shall be held in private, save that every third meeting will include a public session at which members of the public and representatives of the press shall be permitted to attend

19 Observers at Board of Directors Meetings

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

ANNEX 8 – FURTHER PROVISIONS

1 Restrictions on Membership

There are no restrictions on membership other than that members of any public constituency must be aged 14 years or above when an application is made.

2 Dispute Resolution

- 2.1 Any dispute or complaint arising from the procedures set out in the constitution as they relate to the functioning of the Board of Directors, the Governors' Assembly or any aspect of the membership or election arrangements will be referred in the first instance for resolution by the Trust Secretary, in consultation with the Chairman, Chief Executive or the Governors' Assembly as appropriate
- 2.2 If the dispute is between the Governors' Assembly and the Board of Directors the Chairman or deputy chairman (if the dispute involves the chairman) will endeavour to resolve the issue through discussion with the Governors and Directors to the satisfaction of both parties
- 2.3 Failing resolution under 2.2 then the Board or the Assembly, as appropriate, will at its next formal meeting, approve the precise wording of a disputes statement setting out clearly the issues in dispute
- 2.4 The Chairman will ensure that the disputes statement is an agenda item and paper at the next formal meeting of the Assembly or Board as appropriate. That meeting will agree a response to the disputes statement
- 2.5 The Chairman (or deputy chairman) will immediately as soon as practicable communicate the outcome to the other party and deliver the written response.
- 2.6 If the matter remains unresolved and following further discussions and/or use of the above process there appears to the Chairman to be no prospect of resolution then he will advise the Assembly and the Board accordingly
- 2.7 Where the dispute remains unresolved or only partially resolved the view of the Board of Directors will prevail
- 2.8 Nothing in the above procedure will prevent the Governors' Assembly, if it wishes, from informing Monitor that, in the Assembly's opinion, the Board of Directors has not responded constructively to concerns of the Assembly that the Trust is not meeting its Terms of Authorisation

3 Amendment of the Constitution

The Trust may make amendments to this constitution (including the Annexes) only with the approval of Monitor. No proposals for amendments to this constitution will be put to Monitor unless it has been approved by the Board of Directors and the Governors' Assembly. Such approval shall require support from at least three quarters of the membership of the Board of Directors voting at a meeting, and at least three quarters of the membership of the Governors' Assembly voting at a meeting

4 Further provisions on disqualification of non-executive directors

Further to the requirements set out in paragraph 20 the Board of Directors will determine, and identify in the annual report, each non-executive director it considers to be independent. Anyone identified as not being independent will not be permitted to become or continue as a non-executive director and consideration of independence or otherwise will include the following factors:

- If he has been an employee of the trust within the last five years;
- If he has, or has had within the last three years, a material business relationship with the trust either directly, or as a partner, shareholder, director, or senior employee of a body that has such a relationship with the trust;
- If he has received or receives additional remuneration from the trust apart from a director's fee, participates in the trust's performance related pay scheme, or is a member of the trust's pension scheme;
- If he has close family ties with any of the trust's advisers, directors or senior employees;
- If he holds cross directorships or has significant links with other directors through involvement in other companies or bodies;
- If he has served on the trust's Board of Directors for more than nine years from the date of their first appointment.

The board must state its reasons if it determines that a director is independent despite the existence of relationships or circumstances such as those listed above.

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 2

Mandatory Goods and Services

Year: 2009-10
Trust: Humber NHS Foundation Trust

Sub care group	Currency	Learning disability	Adult mental illness	Child and adolescent psychiatry	Forensic psychiatry	Psychotherapy	Old age psychiatry	Other
		700	710	711	712	713	715	
Inpatient	Beds	15	66	10	-	-	-	3
PICU	Beds	-	14	-	-	-	-	-
Rehabilitation - Inp	Beds	-	31	-	-	-	-	-
Medium Secure	Beds	10	-	-	52	-	-	-
Inpatient - mixed	Beds	-	-	-	-	-	26	-
Assertive Outreach	Teams	-	5	-	-	-	-	-
CLDT	Teams	6	-	-	-	-	-	-
CMHT	Teams	-	10	4	-	-	12	-
Community Forens	Teams	-	2	-	-	-	-	-
Crisis resolution te	Teams	-	3	-	-	-	-	-
Early Intervention t	Teams	-	1	-	-	-	-	-
Prison Inreach	Teams	-	2	-	-	-	-	-
Psychiatric Liaison	Teams	-	1	2	-	-	-	-
Community	Teams	-	-	-	-	-	-	6
Other	Teams	-	-	-	-	7	-	-
IAPT	Teams	-	-	-	-	-	-	-
Memory Clinic	Teams	-	-	-	-	-	-	-
Young People mer	Teams	-	-	-	-	-	-	-
SPA	Teams	-	1	-	-	-	-	-
-	-	-	-	-	-	-	-	-
Total		31	136	16	52	7	38	9

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 3

Mandatory Education and Training

Mandatory Education and Training Services

Commissioning body	Educational body	Contract Length (Years)	Expiry date of contract	Student group	Type of training	Number of Students	Contract Value (£000s)
NHS Hull	HMH Training, Education and Development	1yr	31/03/2010	as per course requirements	Mandatory and Training Diary		63
NHS ERoY	HMH Training, Education and Development	1yr	31/03/2010	as per course requirements	Mandatory and Training Diary		69
HEY - Children's Services	HMH Training, Education and Development	1yr	31/03/2010	as per course requirements	Mandatory and Training Diary		13
Yorkshire & the Humber SHA	for HYMS & Hull University	1yr	31/03/2010	pre-reg Medical and Nursing students	professional registration training		2,509

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 4

Private Health Care

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

PRIVATE HEALTH CARE

In 2002/03 the proportion of the total patient income derived from private health charges was 0.0%.

The Trust is designated as mental health foundation trust for the purposes of section 44 of the National Health Service Act 2006.

Pursuant to section 44 of that Act and Condition 10 of this Authorisation the proportion of total income of the Trust in any financial year derived from private charges shall not be greater than 1.5%.

DEFINITION:

Private patient income

Total patient
related income

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 5

Limit on Borrowing

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

PRUDENTIAL BORROWING LIMIT

Pursuant to section 46 of the Act and the Prudential Borrowing Code, the Prudential Borrowing Limit for the year 2009/10 is the sum of the following:

- (i) Maximum cumulative long term borrowing (Tier 1): £18.5 million;
- and
- (ii) Approved working capital facility: not to exceed £6.39 million.

AUTHORISATION OF HUMBER NHS FOUNDATION TRUST

Schedule 6

Information

Full details of the information which the Trust shall disclose to Monitor directly and to any third parties as may be specified by the Secretary of State and as may be varied from time to time are set out on Monitor's website at www.monitor-nhsft.gov.uk.