

AUTHORISATION OF KETTERING GENERAL HOSPITAL NHS FOUNDATION TRUST

Schedule 1

The Constitution (and Annexures)

Kettering General Hospital

NHS Foundation Trust

Constitution

OCTOBER 2008

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1. NAME

- 1.1 The name of the foundation trust is the Kettering General Hospital NHS Foundation Trust (the Trust).

2. PRINCIPAL PURPOSE

- 2.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England. In accordance with the provisions of Sections 43 and 47 of the 2006 Act, and without limitation to any other power of the Trust by virtue of this Constitution and the 2006 Act, the Trust may carry out research in connection with the provision of healthcare and make facilities and staff available for the purposes of education, training or research carried on by others. The Trust may do anything, which appears to it to be necessary or expedient for the purposes of or in connection with its functions subject to any restrictions set out in the Trust's Authorisation (*Note 2*)

3. POWERS

- 3.1 The powers of the Trust are set out in the 2006 Act, subject to any restrictions in the Terms of Authorisation.
- 3.2 The powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.
- 3.3 Any of these powers may be delegated to a committee of Directors or to an Executive Director.

4. MEMBERSHIP AND CONSTITUENCIES

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

- 4.1 A Public Constituency
- 4.2 A Staff Constituency

5. APPLICATION FOR MEMBERSHIP

- 5.1 An individual who is eligible to become a Member of the Trust may do so on application to the Trust (See also paragraph 7).

6. PUBLIC CONSTITUENCY

- 6.1 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.
- 6.2 Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the Public Constituency.
- 6.3 The minimum number of Members in each area for the Public Constituency is specified in Annex 1.

7. STAFF CONSTITUENCY

7.1 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:

7.1.1 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

7.1.2 he has been continuously employed by the Trust under a contract of employment for at least 12 months.

7.2 Individuals who exercise functions for the purpose of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as Members of the appropriate class of the Staff Constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.

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

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

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

7.6 An individual who is:

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

7.6.2 invited by the Trust to become a Member of the Staff Constituency and a Member of the appropriate class within the Staff Constituency, shall become a Member of the Trust as a Member of the Staff Constituency and appropriate class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

8. PATIENTS' CONSTITUENCY

Not Applicable

9. RESTRICTION ON MEMBERSHIP

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

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 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 Annexe 9 – Further Provisions.

10. COUNCIL OF MEMBERS – COMPOSITION

- 10.1** The Trust is to have a Council of Members, which shall comprise both elected and appointed Members.
- 10.2** The composition of the Council of Members is specified in Annex 4.
- 10.3** Council of Members, other than the appointed Members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of Members to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 4.

11. COUNCIL OF MEMBERS – ELECTION OF MEMBERS

- 11.1** Elections for elected Council of Members shall be conducted on a First Past the Post basis and in accordance with the Model Rules for Elections, as may be varied from time to time.
- 11.2** The Model Rules for Elections, as may be varied from time to time, form part of this Constitution and are attached at Annex 5.
- 11.3** A variation of the Model Rules, by the Department of Health shall not constitute a variation of the terms of this Constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules.
- 11.4** An election, if contested, shall be by secret ballot.

12. COUNCIL OF MEMBERS – TENURE

- 12.1** An elected Council Member may hold office for a period of up to three years, subject to and in accordance with Annex 6.
- 12.2** An elected Council Member shall cease to hold office if he ceases to be a Member of the constituency or class by which he was elected.
- 12.3** An elected Council Member shall be eligible for re-election at the end of his term, subject to and in accordance with Annex 6.

13. COUNCIL OF MEMBERS – DISQUALIFICATION AND REMOVAL

- 13.1** The following may not become or continue as a Member of the Council of Members:
 - 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 Isles, or elsewhere, 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** Council Members must be at least 16 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 Council of Members are set out in Annex 6.

13.4 The Constitution is to make provision for the removal of Council Members. These are set out in Annex 6.

14. COUNCIL OF MEMBERS – MEETINGS OF MEMBERS

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 and 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 Council of Members.

14.2 Meetings of the Council of Members shall be open to members of the public. Members of the public may be excluded from all or part of any meeting following appropriate resolution by the Council of Members made in accordance with its Standing Orders set out in Annex 7 paragraph 4.

15. COUNCIL OF MEMBERS – STANDING ORDERS

15.1 The Standing Orders for the practice and procedure of the Council of Members, as may be varied from time to time, are attached at Annex 7.

16. COUNCIL OF MEMBERS – CONFLICTS OF INTEREST OF MEMBERS

16.1 If a Council Member has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Members, the Council Member shall disclose that interest to the members of the Council of Members as soon as he becomes aware of it. The Standing Orders for the Council of Members shall make provision for the disclosure of interests and arrangements for the exclusion of a Council Member declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

17. COUNCIL OF MEMBERS – TRAVEL EXPENSES

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

18. COUNCIL OF MEMBERS – FURTHER PROVISIONS

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

19 BOARD OF DIRECTORS - COMPOSITION

19.1 The Trust shall have a Board of Directors, which shall consist of Executive and Non Executive Directors.

19.2 The Board shall comprise:

(a) The following Non Executive Directors;

(i) A Non Executive Chairman and a minimum of 5 and maximum of 7 Non Executive Directors

(b) The following Executive Directors;

- (ii) A minimum of 5 and a maximum of 7 Executive Directors.
One of the Executive Directors shall be the Chief Executive
The Chief Executive shall be the Accounting Officer
One of the Executive Directors shall be the Finance Director
One of the Executive Directors is to be registered Medical Practitioner or a registered dentist (within the meaning of the Dentist Act 1984.
One of the Executive Directors is to be a registered nurse or registered midwife.

19.3 At least half the Board, excluding the Chairman will comprise of 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 a Member of the Patient's Constituency – this is not applicable for this Trust
- 20.3 Where any of the Trust's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university, and
- 20.4 He is not disqualified by virtue of paragraph 26 below.

21. BOARD OF DIRECTORS – APPOINTMENT AND REMOVAL OF CHAIRMAN AND OTHER NON EXECUTIVE DIRECTORS

- 21.1 The Council of Members at a general meeting of the Council of Members 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 Council of Members and shall follow the process as described in Annex 6, paragraph 7.
- 21.3 The initial Chairman and the initial Non Executive Directors are to be appointed in accordance with paragraph 22 below.
- 21.4 The Terms of Office are in accordance with Annex 8.

22. BOARD OF DIRECTORS – APPOINTMENT OF INITIAL CHAIRMAN AND INITIAL OTHER NON EXECUTIVE DIRECTORS

- 22.1 The Chairman of the applicant NHS Trust shall be appointed as the initial Chairman of the Trust if he wishes to be appointed.
- 22.2 The power of the Council of Members 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

23.1 The Council of Members at a general meeting of the Council of Members 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 Council of Members.

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 chief officer of the applicant NHS Trust shall be appointed 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 Council of Members.

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 Isles (or elsewhere) 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 Trust will be administered in accordance with the Standing Orders for the practice and procedure of the Board of Directors, as may be varied from time to time, which are attached at Annex 8.

28. BOARD OF DIRECTORS – CONFLICTS OF INTEREST OF DIRECTORS

28.1 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 Council of Members at a general meeting of the Council of Members 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 classes within it, the class to which he belongs;

30.2 A register of Members of the Council of Members;

30.3 A register of interests of Council Members;

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 Board shall nominate a Registrar who may or may not be an employee. The Registrar may not be a Council Member or the Chief Executive or the Finance Director.

31.2 The Registrar shall be responsible for keeping the registers up to date from information received by him, and the registers may be kept in either paper or electronic form.

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 Council of Members shall appoint or remove the Auditor at a general meeting of the Council of Members.

35. AUDIT COMMITTEE

35.1 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.

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 Council of Members.

38. MEETING OF COUNCIL OF MEMBERS TO CONSIDER ANNUAL ACCOUNTS AND REPORTS

38.1 The following documents are to be presented to the Council of Members at a general meeting of the Council of Members:

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. INTERPRETATION AND DEFINITIONS

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

References in this Constitution and its Annexes to legislation shall be deemed to incorporate references to such legislation as amended, re-enacted or replaced from time to time.

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

Corporate Governance - Systems and processes for ensuring proper accountability, probity and openness in the conduct of an organisation's business.

Council means the Council of Members, formally constituted in accordance with this Trust's Constitution

Council Member means a person elected or appointed to the Council of Members.

Executive Director means a person appointed to the Board of Directors,

Member means a person registered as a member of a constituency

Monitor is the Independent Regulator of NHS Foundation Trusts, established under Section 2 of the 2003 Act whose appointment continues under Section 31 of the 2006 Act.

Non Executive Director is a person appointed by a meeting of the Council of Members and will be a member of the Board of Directors. Initially Non Executive Directors of the applicant NHS Trust will automatically become Non Executive Directors of the Foundation Trust. This includes the Chairman of the Trust.

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

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

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.

41. CHANGES TO THE CONSTITUTION.

Any proposed changes to the Constitution of the Trust shall first be provisionally agreed by the Board of Directors and then provisionally agreed by the Council of Members in accordance with their respective Standing Orders contained in Annexes 7 and 8. The changes, so agreed provisionally, shall be submitted to the Independent Regulator of NHS Foundation Trusts for final approval and shall take effect only upon Monitor giving its final approval.

42. SUPPORTING DOCUMENTATION

The Constitution should be read in conjunction with the supporting documentation detailed.

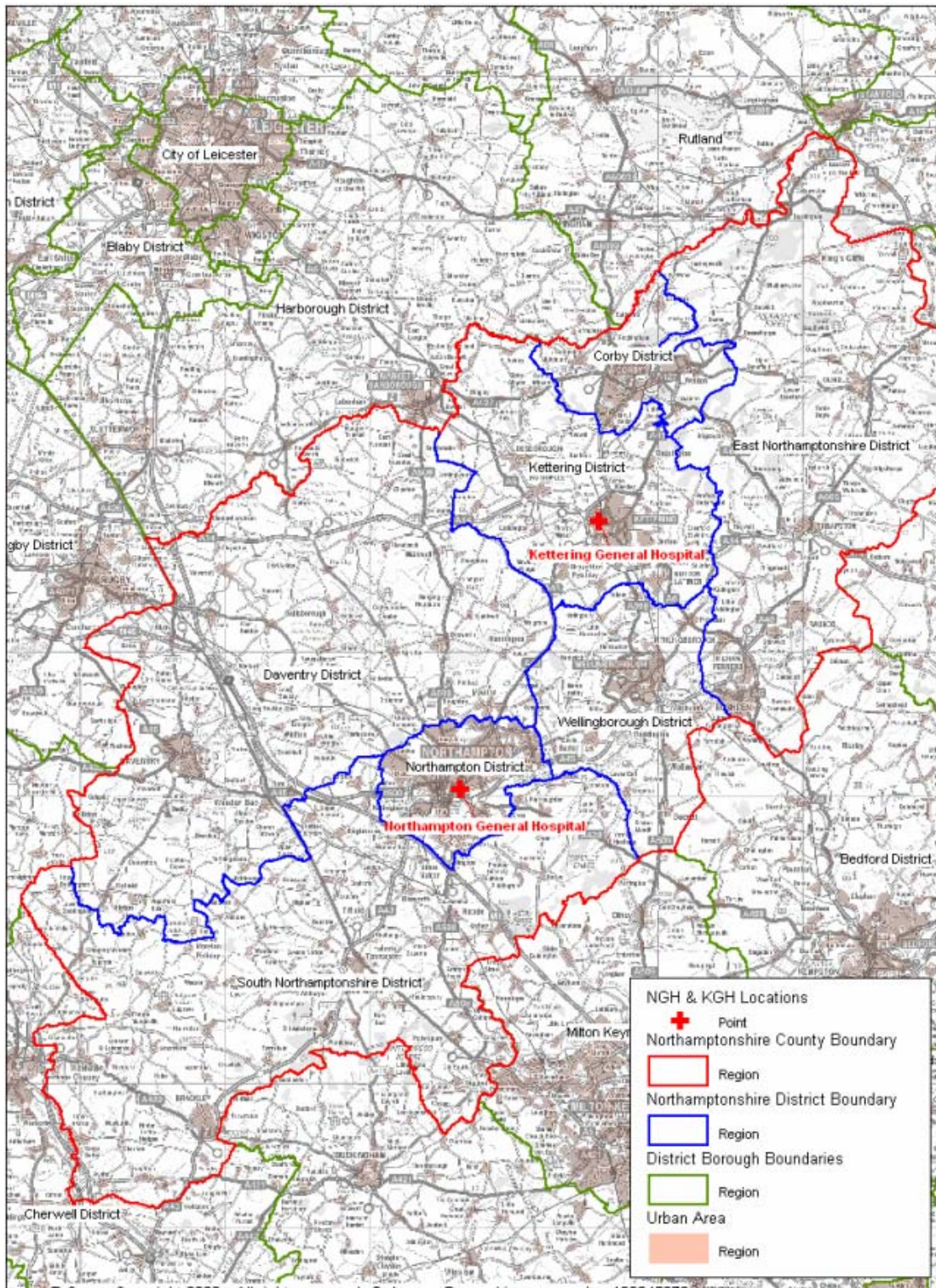
ANNEX 1- THE PUBLIC CONSTITUENCY

The Public Constituency of the Trust consists of the Local Government electoral boundaries specified in the table below.

The 6 Public Constituencies are as listed. Members in each Constituency shall elect Members (in accordance with Annex 4) to represent them on the Council of Members.

AREA 1	AREA 2	AREA 3		AREA 4	AREA 5	AREA 6	
KETTERING	CORBY	EAST NORTHANTS	BEDFORD	WELLINGBOROUGH	HARBOROUGH DISTRICT	DAVENTRY	NORTHAMPTON
All Saints Avondale Barton Buccleuch Latimer Loatland Millbrook Pipers Hill Plessy Queen Eleanor St Andrew's St Giles St Mary's St Micheal's St Peter's Slade Spinney Tresham Trinity Warkton Welland Wicksteed	Beanfield Central Danesholme East Exeter Great Oakley Kingswood Lodge Park Oakley Vale Rowlett Rural West Shire Lodge Stanion & Corby Village Tower Hill Weldon & Gretton	Kings Forest Lower Nene Barnwell Thrapston Raunds Saxon Raunds Windmill Stanwick Higham Ferrers Rushden East Rushden South Rushden West Rushden North Irthlingborough Ringstead Woodford Dryden Oundle Lyveden Prebendal Fineshade	Sharnbrook Harrold	Finedon Hemmingwell Castle Swanspool Croyland Wollaston South Earls Barton Great Doddington & Wilby West Brickhill Queensway Redwell East Redwell West Irchester North	Billesdon Bosworth Broughton Primethorpe Sutton Dunton Fleckney Kibworth Glen Lubenham Brookfield Orchard Springs Swift Great Bowden & Arden Little Bowden Logan Welland Misterton Nevill Peatling Thurnby & Houghton Tilton Ullesthorpe	Clipston Guilsborough & West Haddon Spratton Brixworth Moulton Boughton and Pitsford Ravensthorpe Brampton Flore Weedon Woodford Byfield Badby Braunston Barby & Kilsby Long Buckby Crick Yelvertoft Welford Walgrave Abbey South Abbey North Hill Drayton	Thorplands Lumbertubs Billing Headlands Weston Abington Nene Valley Delapre Castle Old Duston St Crispin New Duston Kingsthorpe Boughton Green West Hunsbury East Hunsbury Eastfield Ecton Brook Kingsley Parklands Spencer St James St David's
MINIMUM NUMBER OF MEMBERS FOR EACH AREA							
60	40	50		40	10	10	

ANNEX 1- THE PUBLIC CONSTITUENCY



Note;- this map is for illustration purposes only. It is the local authority Ward boundaries alone that defines the public constituencies.

ANNEX 2 – THE STAFF CONSTITUENCY

Class	Minimum number of Members
Medical Practitioners & Dental Practitioners	40
Nursing, Midwifery & Other Clinical Staff	60
Non-clinical staff	20
Total	120

ANNEX 3 – THE PATIENTS’ CONSTITUENCY

Not Applicable

ANNEX 4 – COMPOSITION OF COUNCIL OF MEMBERS

The Council of Members consists of: -

Members appointed by partnership organisations and Members elected by:

- (a) Members of the Public in each of the Constituencies defined in Annex 1 of this Constitution; and by
- (b) Individuals within each class of the Staff Constituency defined in Annex 2 of this Constitution.

More than half of the Members of the Council of Members shall be elected by those in (a) above.

Membership of the Council of Members is detailed below:

Appointed Members		Role
Commissioning Primary Care Trust. The main Commissioners are currently Northamptonshire Teaching PCT.	1	To represent main Trust Commissioners and key NHS health economy partners
Principal Local Councils		
<ul style="list-style-type: none"> • Northamptonshire County Council • Harborough District Council • Corby Borough Council • Kettering Borough Council • East Northamptonshire Council • Wellingborough Borough Council 	1 1 1 1 1 1	To represent key local non-NHS health economy partners
Principal Universities		
For the time being;		
<ul style="list-style-type: none"> • The University of Leicester and • The University of Northampton 	1 1	To ensure strong teaching and research partnership and to represent other University interests
North Northants Development Company	1	To bring regeneration and/or commercial focus to the Council and foster strong links with the business community
Northamptonshire Local Involvement Network	1	To reinforce the representation of patients' views and interests
Nene Valley Community Action and Groundwork	2	To ensure a voice for the voluntary sector who often work in partnership with the Trust
Total Appointed Members	13	

ANNEX 4 – COMPOSITION OF COUNCIL OF MEMBERS

(Members (continued))

Elected Members		Role
Staff Elected Members to represent:		
Medical Practitioners & Dental Practitioners	1	To assist the Trust in developing its service and ensure active representation from those who deliver the services
Nursing, Midwifery & Other Clinical Staff	3	As above
Non Clinical Staff	2	As above
Total Elected Staff Members		6

Public Elected Members to represent:		Role
Kettering	6	Representing the public who are resident in Annex 1 area 1
Corby	4	Representing the public who are resident in Annex 1 area 2
East Northants and Bedford	5	Representing the public who are resident in Annex 1 area 3
Wellingborough	4	Representing the public who are resident in Annex 1 area 4
Harborough District	1	Representing the public who are resident in Annex 1 area 5
Daventry and Northampton	1	Representing the public who are resident in Annex 1 area 6
Total Public Elected Members		21

Total Membership of Council of Members:	
Appointed Members	13
Staff Members	6
Public Members	21
Total	40

ANNEX 5 – MODEL ELECTION RULES

The Trust has adopted the Model Election Rules contained in this Annex. It will determine the result of the election using the First Past the Post option (FPP).

Part 1 – Interpretation

1. Interpretation

Part 2 – Timetable for election

2. Timetable
3. Computation of time

Part 3 – Returning officer

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

Part 4 - Stages Common to Contested and Uncontested Elections

8. Notice of election
9. Nomination of candidates
10. Candidate's consent and particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination papers
15. Publication of statement of nominated candidates
16. Inspection of statement of nominated candidates and nomination papers
17. Withdrawal of candidates
18. Method of election

Part 5 – Contested elections

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

Action to be taken before the poll

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

The poll

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

Procedure for receipt of envelopes

32. Receipt of voting documents
33. Validity of ballot paper
34. Declaration of identity but no ballot paper
35. Sealing of packets

ANNEX 5 – MODEL ELECTION RULES

Part 6 - Counting the votes

36. STV - Interpretation of part 6
37. Arrangements for counting of the votes
38. The count
39. Rejected ballot papers (FPP)
40. STV First Stage (not applicable)
41. STV The Quota (not applicable)
42. STV Transfer of Votes (not applicable)
43. STV Supplementary Provisions on Transfer (not applicable)
44. STV Exclusion of Candidates (not applicable)
45. STV Filling of Last Vacancies (not applicable)
46. STV Order of election of Candidates (not applicable)
46. FPP Equality of votes

Part 7 – Final proceedings in contested and uncontested elections

47. Declaration of result for contested elections (FPP)
48. Declaration of result for uncontested elections

Part 8 – Disposal of documents

49. Sealing up of documents relating to the poll
50. Delivery of documents
51. Forwarding of documents received after close of the poll
52. Retention and public inspection of documents
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ANNEX 5 – MODEL ELECTION RULES

PART 1 – INTERPRETATION

1. Interpretation -

- (1) In these rules, unless the context otherwise requires –
- “corporation” means the public benefit corporation subject to this constitution;
- “election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the Council of Members;
- “the Regulator” means the Independent Regulator for NHS foundation trusts; and
- “the 2006 Act” means the National Health Service Act 2006.
- (2) Other expressions used in these rules and in Schedule 7 to the 2006 Act have the same meaning in these rules as in that Schedule.

PART 2 – TIMETABLE FOR ELECTION

2. **Timetable** - The proceedings at an election shall be conducted in accordance with the following timetable.

Proceeding	Time
Publication of notice of election	Not later than the fortieth day before the day of the close of the poll.
Final day for delivery of nomination papers to returning officer	Not later than the twenty-eighth day before the day of the close of the poll.
Publication of statement of nominated candidates	Not later than the twenty-seventh day before the day of the close of the poll.
Final day for delivery of notices of withdrawals by the 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.

ANNEX 5 – MODEL ELECTION RULES

PART 3 RETURNING OFFICER

4. Returning officer

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

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

6. **Expenditure** - The Corporation is to pay the returning officer –

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

7. Duty of co-operation

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

PART 4 - STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. **Notice of election** – The returning officer is to publish a notice of the election stating –

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

ANNEX 5 – MODEL ELECTION RULES

9. Nomination of candidates

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

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

10. Candidate's particulars (1) The nomination paper must state the candidate's –

- (a) full name,
- (b) contact address in full, and
- (c) constituency, or class within a constituency, of which the candidate is a member.

11. Declaration of interests – The nomination paper must state –

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

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

12. Declaration of eligibility - The nomination paper must include a declaration made by the candidate -

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

13. Signature of candidate - 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.

ANNEX 5 – MODEL ELECTION RULES

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 –
 1. 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,
 2. that the paper does not contain the candidate's particulars, as required by rule 10;
 3. that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,
 4. that the paper does not include a declaration of eligibility as required by rule 12, or
 5. 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 nominated candidates

- (1) The returning officer is to prepare and publish a statement showing the candidates who are standing for election.
- (2) The statement must show –
 - (a) the name, contact address, and constituency or class within a constituency of each candidate standing, and
 - (b) the declared interests of each candidate standing,
as given in their nomination paper.

ANNEX 5 – MODEL ELECTION RULES

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

16. Inspection of statement of nominated candidates and nomination papers

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

17. Withdrawal of candidates

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

18. Method of election

- (1) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the Council of Members, a poll is to be taken in accordance with Parts 5 and 6 of these rules.
- (2) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the Council of Members, those candidates are to be declared elected in accordance with Part 7 of these rules.
- (3) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be Council of Members, 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.

ANNEX 5 – MODEL ELECTION RULES

20. The ballot paper

- (1) The ballot of each voter is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.
- (2) Every ballot paper must specify:–
 - (a) the name of the corporation,
 - (b) the constituency, or class within a constituency, for which the election is being held,
 - (c) the number of members of the Council of Members to be elected from that constituency, or class within that constituency,
 - (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (e) instructions on how to vote,
 - (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
 - (g) the contact details of the returning officer.
- (3) Each ballot paper must have a unique identifier.
- (4) Each ballot paper must have features incorporated into it to prevent it from being reproduced.

21. The declaration of identity (public or patient constituencies)

- (1) In respect of an election for a public or patient constituency a declaration of identity must be issued with each ballot paper.
- (2) The declaration of identity is to include a declaration -
 - (a) that the voter is the person to whom the ballot paper was addressed,
 - (b) that the voter has not marked or returned any other voting paper in the election, and,
 - (c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency 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.

ANNEX 5 – MODEL ELECTION RULES

- (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 voters 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 class within a constituency for which the election is being held who are eligible to vote by virtue of rule 26 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.
- (2) The list is to include, for each member, a mailing address where his or her ballot paper is to be sent.

23. Notice of poll - The returning officer is to publish a notice of the poll stating–

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the Council of Members to be elected from that constituency, or class with that constituency,
- (d) the name, 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.

ANNEX 5 – MODEL ELECTION RULES

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.

ANNEX 5 – MODEL ELECTION RULES

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
 - (c) 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.

ANNEX 5 – MODEL ELECTION RULES

30. Issue of replacement ballot paper

- (1) If a person applies for a replacement ballot paper under rule 28 or 29 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue a replacement ballot paper unless, in addition to the requirements imposed rule 28(3) or 29(2), he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.
- (2) After issuing a replacement ballot paper under this rule, the returning officer shall enter in a list (“the list of tendered ballot papers”);
 - (a) the name of the voter, and
 - (b) the details of the unique identifier of the replacement ballot paper issued under this rule.

31. Declaration of identity for replacement ballot papers (public and patient constituencies)

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

Procedure for receipt of envelopes

32. Receipt of voting documents

- (1) Where the returning officer receives a;
 - (a) covering envelope, or

ANNEX 5 – MODEL ELECTION RULES

- (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 to the ballot paper,
 - (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.

34. Declaration of identity but no ballot paper (public and patient constituency) - Where the returning officer receives a declaration of identity if required but no ballot paper, the returning officer is to;

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

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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. STV Interpretation of part 6

(not applicable)

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 (FPP)

- (1) Any ballot paper;
 - (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
 - (b) on which votes are given for more candidates than the voter is entitled to vote,
 - (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
 - (d) which is unmarked or rejected because of uncertainty,

shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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- (2) Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.
- (3) A ballot paper on which a vote is marked;
- (a) elsewhere than in the proper place,
 - (b) otherwise than by means of a clear mark,
 - (c) by more than one mark,

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

- (4) The returning officer is to;
- (a) Endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
 - (b) in the case of a ballot paper on which any vote is counted under paragraph (2) Or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.
- (5) The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings;
- (a) does not bear proper features that have been incorporated into the ballot paper,
 - (b) voting for more candidates than the voter is entitled to,
 - (c) writing or mark by which voter could be identified, and
 - (d) unmarked or rejected because of uncertainty,
- and, where applicable, each heading must record the number of ballot papers rejected in part.

40. STV First stage

(not applicable)

41. STV The Quota

(not applicable)

42. STV Transfer of Votes

(not applicable)

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43. STV Supplementary provisions of transfer

(not applicable)

44. STV Exclusion of candidates

(not applicable)

45. STV Filling of last vacancies

(not applicable)

46. STV Order of election of candidates

(not applicable)

46. FPP Equality of Votes

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

PART 7 – FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

47. Declaration of result for contested elections (FPP)

- (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to;
 - (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the Council of Members from the constituency, or class within a constituency, for which the election is being held to be elected,
 - (b) give notice of the name of each candidate who he or she has declared elected;
 - i. where the election is held under a proposed constitution pursuant to powers conferred on the Kettering General Hospital NHS Foundation 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
 - (c) give public notice of the name of each candidate whom he or she has declared elected.
- (2) The returning officer is to make;
 - (a) the total number of votes given for each candidate (whether elected or not), and
 - (b) the number of rejected ballot papers under each of the headings in rule 39 (5) (FPP),

available on request.

ANNEX 5 – MODEL ELECTION RULES

48. Declaration of result for uncontested elections

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

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

PART 8 – DISPOSAL OF DOCUMENTS

49. Sealing up of documents relating to the poll

- (1) On completion of the counting at a contested election, the returning officer is to seal up the following documents in separate packets;
 - (a) the counted ballot papers,
 - (b) the ballot papers endorsed with “rejected in part”,
 - (c) the rejected ballot papers, and
 - (d) the statement of rejected ballot papers.
- (2) The returning officer must not open the sealed packets of;
 - (a) the disqualified documents, with the list of disqualified documents inside it,
 - (b) the declarations of identity,
 - (c) the list of spoiled ballot papers,
 - (d) the list of lost ballot papers,
 - (e) the list of eligible voters, and
 - (f) the list of tendered ballot papers.
- (3) The returning officer must endorse on each packet a description of;
 - (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the corporation to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.

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

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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 re-sent, or
- (c) any applications for replacement ballot papers are made too late to enable new ballot papers to be issued,

the returning officer is to put them in a separate packet, seal it up, and endorse and forward it to the 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
 - (c) 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,

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(c) place and mode of inspection,

(d) production or opening,

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

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

(a) in giving its consent, the regulator, and

(b) 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 (FPP)

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

(a) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned within that constituency or class, and

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

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

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

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

(5) The returning officer is to;

(a) count and record the number of ballot papers that have been received, and

(b) seal up the ballot papers into packets, along with the records of the number of ballot papers.

ANNEX 5 – MODEL ELECTION RULES

- (6) The returning officer is to endorse on each packet a description of;
- (a) its contents,
 - (b) the date of the publication of notice of the election,
 - (c) the name of the corporation to which the election relates, and
 - (d) the constituency, or class within a constituency, to which the election relates.
- (7) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (4) to (6), the returning officer is to deliver them to the chairman of the corporation, and rule 52 and 53 are to apply.

PART 10 – ELECTION EXPENSES AND PUBLICITY

Election expenses

55. Election expenses

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

56. Expenses and payments by candidates

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

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

57. Election expenses incurred by other persons

- (1) No person may;
- (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
 - (b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.
- (2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

ANNEX 5 – MODEL ELECTION RULES

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
 - (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.

ANNEX 5 – MODEL ELECTION RULES

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 (or class within a 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.

ANNEX 5 – MODEL ELECTION RULES

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 6

ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

Contents

- 1. Eligibility to be a Council Member**
- 2. Requirement of a Council Member to notify Trust**
- 3. Termination of Office and Removal of Council Members**
- 4. Terms of Office**
- 5. Vacancies Amongst Council Members**
- 6. Roles and Responsibilities**
- 7. Appointment and Removal of Non Executive Directors
(including Chairman and Deputy Chairman)**
- 8. Remuneration of the Chairman and other Non Executive Directors**

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

1. ELIGIBILITY TO BE A COUNCIL MEMBER

A person may not become a Council Member of the Trust, and if already holding such office will immediately cease to do so, if:

- 1.1 He is a Director of the Trust, or a Member, Council Member, Governor or Director of another NHS Foundation Trust or any other NHS body, unless such Foundation Trust or NHS body is an appointing organisation, which is appointing him under this Constitution;
- 1.2 Being a Member of one of the public constituencies, he fails to sign a declaration in the form specified by the Council of Members of the particulars of his qualification to vote as a Member of the Trust, and that he is not prevented from being a Member of the Council of Members;
- 1.3 A person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
- 1.4 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;
- 1.5 A person who within the preceding five years has been convicted in the British Isles, or elsewhere, 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;
- 1.6 He is incapable by reason of mental disorder, illness or injury of managing or administering his property and affairs;
- 1.7 He has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- 1.8 He is a person whose tenure of office as the Chairman or as a Member or Director of a health service body has been terminated on the grounds that his appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
- 1.9 He has failed to sign and deliver to the Trust Board Secretary a statement in the form required by the Council of Members confirming acceptance of the Trust's Code of Conduct (see Appendix 1 of this Constitution);
- 1.10 He has made a claim against the Trust (or Kettering General NHS Trust where such a claim relates to the period prior to creation of the Trust) and has issued legal proceedings in respect of such claim;
- 1.11 He has failed to undertake any training, which the Council of Members requires all Council Members to undertake;
- 1.12 He is removed from the Council of Members by a resolution approved by a majority of the remaining Council Members present and voting at a General Meeting on the grounds that:
 - (a) He has committed a serious breach of the Trust's Code of Conduct, or
 - (b) He has acted in a manner detrimental to the interests of the Trust, or
 - (c) He has failed to discharge his responsibilities as a Council Member

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

- 1.13** If it comes to the notice of the Trust Board Secretary at the time of the Council Members appointment or later that the Council Member is ineligible to hold office, they shall immediately declare that the person in question is disqualified and notify the Council Member in writing to that effect. Upon receipt of any such notification, that person's tenure of office, if any, shall be terminated and they shall cease to act as a Council Member;
- 1.14** Where a person has been declared disqualified by the Trust Board Secretary under paragraph 1.13 above, they may appeal the Secretary's decision to the Chairman, whose decision on the matter will be final;
- 1.15** He refuses a CRB check or on return of a CRB check it is noted that the Member is no longer eligible under the terms of the Constitution or Standing Orders. Any undisclosed convictions reported under a CRB check will be considered by the Chairman with regard to the future eligibility of that Member.

2. REQUIREMENT OF COUNCIL MEMBER TO NOTIFY TRUST

Where a person has been elected or appointed to be a Council Member and he becomes disqualified from office under paragraph 13 of the Trust's Constitution, he shall notify the Secretary in writing of such disqualification.

3. TERMINATION OF OFFICE AND REMOVAL OF COUNCIL MEMBERS

A person holding office as a Council Member shall immediately cease to do so if

- 3.1** He resigns by notice in writing to the Secretary;
- 3.2** He is disqualified under paragraph 1 above;
- 3.3** He fails to attend three successive meetings, unless the Chairman is satisfied that:
- (a) the absences were due to reasonable causes; and
 - (b) he will be able to start attending meetings of the Trust again within such a period as they consider reasonable;
- 3.4** In the case of an elected Council Member, he ceases to be a Member of the constituency or class of the Membership of the Trust by which he was elected;
- 3.5** In the case of a nominated Council Member, the appointing organisation terminates their employment or the individual is no longer eligible to represent the appointing organisation.

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

4. TERMS OF OFFICE

4.1 Terms of office for all Council Members will be 3 years, for a maximum of 3 terms.

4.2 However, to allow for continuity within the Council, the initial elections will allow for some terms of office to be for a 2-year term. The highest polling candidates will be offered the initial 3-year terms (see table below)

CONSTITUENCIES	3 year term	2 year term
PUBLIC		
Kettering	3	3
Corby	2	2
East Northants	3	2
Wellingborough	2	2
Harborough District	1	
Daventry and Northampton	1	
STAFF		
Medical and Dental	1	
Nursing, Midwifery & Other Clinical Staff	2	1
Non Clinical Staff	1	1
Total	16	11

5. VACANCIES AMONGST COUNCIL MEMBERS

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

5.2 Where the vacancy arises amongst the appointed Council Members, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.

5.3 Where the vacancy arises amongst the elected Council Members, the Council of Members shall:

- (a) call an election within three months or
- (b) if the vacancy arises within a period of eighteen months of the previous election invite the next highest polling candidate for that seat at the most recent election, who is willing to take office, to fill the seat for any unexpired period of the term of office.

6. ROLES AND RESPONSIBILITIES

6.1 The roles and responsibilities of the Council of Members are:

- Advisory – It communicates to the Board the wishes of Members and the wider community
- Guardianship – It ensures that the Trust is operating in accordance with its Statement of Purpose and is compliant with its Terms of Authorisation. In this regard it acts in a trustee role for the welfare of the organisation
- Strategic - It advises on a longer-term direction to help the Board effectively determine its policies.

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

Council Members are to:

- 6.2 Develop the Membership of the Trust and represent the interests of Members.
- 6.3 Give the views of the Council of Members to the Trust Board of Directors for the purposes of the preparation (by the Directors) of the document containing information as to the Trust's forward planning in respect of each financial year to be given to the Independent Regulator.
- 6.4 Respond to any matter as appropriate when consulted by the Directors.
- 6.5 Appoint or remove the Chairman and the other Non Executive Directors in accordance with paragraphs 20 and 21 of this Constitution and the Deputy Chairman in accordance with paragraph 22 of this Constitution.
- 6.6 Decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and Non Executive Directors in accordance with paragraph 29 of this Constitution.
- 6.7 Approve an appointment of the Chief Executive in accordance with paragraph 24 of this Constitution.
- 6.8 Appointments of the Chairman, Chief Executive and Non Executive Directors are to be approved by the majority of a quorate Council meeting. See Annex 7 para 4.3.2. and the Terms of Reference of the Nominations and Remunerations Committee.
- 6.9 Consider the annual accounts, any report of the auditor on them and the annual report.
- 6.10 Appoint or remove the Trust's external auditor.
- 7. APPOINTMENT AND REMOVAL OF NON-EXECUTIVE DIRECTORS (INCLUDING CHAIRMAN AND DEPUTY CHAIRMAN)**
 - 7.1 The Nomination and Remuneration Committee will identify the balance of individual skills and experience it requires at the time a vacancy arises and, accordingly, draw up a job description and person profile for each new appointment.
 - 7.2 Suitable candidates will be identified by the Board of Directors which may, if it considers it appropriate in particular circumstances, engage an external organisation recognised as an expert in this field, to assist it in the whole process (including the work involved in 7.1 above)
 - 7.3 The Nomination and Remuneration Committee, on expiry of the initial Non-Executive Directors current terms of appointment (or a period of 12 months from appointment as a Director of this Foundation Trust whichever is the greater) and on any subsequent vacancy, shall consider whether to recommend to the Council of Members to reappoint the retiring non-executive or Chairman or Deputy Chairman. The Committee may not make any such recommendation other than for a first renewal of the appointment of a Non-Executive Director or Chairman without first taking the steps outlined in 7.1 and 7.2 above. If the Council of Members does not so appoint, or if the individual does not wish to continue, or if the Committee doesn't not consider the reappointment appropriate then the Board of Directors shall be asked to identify suitable new candidates in accordance with the procedures outlined above.

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF MEMBERS

- 7.4 Suitable candidates identified by the Board of Directors (via their Nomination and Remuneration Committee), together with any comments from the Board, will be considered by the Committee. The Committee shall also take full account of the job description and person profile drawn up by the Board of Directors and shall recommend to the Council of Members of Members an individual for an appointment. At a General Meeting the Council of Members shall either appoint the recommended individual or invite the Committee to make an alternative recommendation.
- 7.5 a) The Council of Members at a General Meeting of the Council of Members shall appoint or remove the Chairman of the Trust and other Non Executive Directors.
- b) The procedure for removing the Chair or a Non-Executive Director is set out in 7.6
- 7.6 a) Where a Member of the Council of Members wishes to propose a resolution to remove the Chair or a Non-Executive Director (such person in either case being referred to in this paragraph as the “Reviewer”), he shall first send a notice in writing of his intention, reasons and supporting evidence to the Chair or if his intention is to remove the Chair to the Senior Independent Director (such person in either case being referred to in this paragraph as the “Investigator”).
- b) The Investigator shall then carry out a preliminary review of the case. If the Investigator concludes that there is no case to answer, the matter shall go no further and the resolution to remove the Reviewer shall not be proposed. If the Investigator concludes that there is or may be a case to answer, he shall notify the Reviewer and the Council of Members of the proposal and the nature of the allegation and shall invite the Reviewer to give his account of the matter: he shall then conduct an investigation into the matter.
- c) If on the basis of his investigation the Investigator concludes that there is no case to answer, the matter shall go no further and the resolution to remove the Reviewer shall not be proposed. If the Investigator concludes that there is or may be a case to answer, he shall notify the Reviewer and the Council of Members of that fact and of his recommendation (if any): the proposal to remove the Reviewer shall be put to a meeting of the Council of Members to be held not sooner than [28 clear days] from the date on which the Investigator notifies the Reviewer and the Council of Members that in his opinion there is or may be a case to answer. The requirement to give such notice shall not be waived under clause 4.3.3.
- d) The Reviewer shall have the right to prepare a written response to be sent to the Members of the Council of Members in advance of the meeting and at the meeting itself the Reviewer shall have the right to address the Council of Members in relation to the proposal for his removal but shall not be entitled to attend the rest of the meeting or to witness the proposal, the deliberations of the Council of Members or their subsequent vote on the matter.
- c) Removal of the Chairman or other Non Executive Directors shall require the approval of three quarters of the Members of the Council of Members in accordance with paragraph 21 of the Constitution.

8. REMUNERATION OF THE CHAIRMAN AND OTHER NON-EXECUTIVE DIRECTORS

In order to determine the proper level of remuneration and allowances that should be paid to the Chairman and other Non Executive Directors the Council may from time to time and at least every three years shall, consult, at the Trust’s expense, with external professional advisers.

**KETTERING GENERAL HOSPITAL NHS FOUNDATION
TRUST**

ANNEX 7

COUNCIL OF MEMBERS STANDING ORDERS

OCTOBER 2008

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

FOREWORD

The Kettering General Hospital NHS Foundation Trust (The “Trust”) is a public benefit corporation established in accordance with the Chapter 5 of the National Health Service Act 2006.

As such, the Trust has specific powers to contract in its own name and to act as a corporate trustee. In its latter role the Trust is accountable to the Charity Commission for those funds deemed to be charitable. The Trust also has a common law duty as a bailee for patients' property held on behalf of patients.

These Standing Orders (SOs) are for the regulation of the Trust's Council of Members proceedings and business.

The Trust's Code of Business Conduct lays down certain procedures where there is concern about possible conflicts of interest of Members.

The Trust believes that public service values lie at its heart. High standards of corporate and personal integrity based on recognition that patients come first, is a fundamental value of the Trust. Members are expected to observe the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership (see paragraph 9 of the Council of Members Standing Orders).

Everything done by the Trust should be able to stand the test of scrutiny, public judgment on propriety, and professional codes of conduct.

There should be sufficient transparency about the Trust's activities to promote confidence between the Trust and its staff, patients and the public.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

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ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

1. INTERPRETATION

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

"**TRUST**" means the Kettering General Hospital NHS Foundation Trust.

"**MEMBER**" means a person registered as a Member of a constituency in terms of paragraph 4 of this Trust's Constitution.

"**COUNCIL MEMBER**" means a person elected or appointed to the Council of Members in terms of paragraph 10 of this Trust's Constitution.

"**DIRECTOR**" means a person appointed to the Board of Directors in terms of paragraph 19 of this Trust's Constitution.

"**CHAIRMAN**" is the person appointed by the Council of Members to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The Chairman shall be deemed to include the Non Executive Director appointed by the Council of Members to take on the Chairman's duties if the Chairman is absent from the meeting or is otherwise unavailable.

"**COUNCIL**" means the Council of Members, formally constituted in accordance with this Trust's Constitution.

"**BOARD**" means the Board of Directors, formally constituted in accordance with this Trust's Constitution and consisting of the Chairman, and Non Executive Directors, appointed by the Council of Members, and the Executive Directors, appointed by the Non Executive Directors and (except for his own appointment) by the Chief Executive.

"**COMMITTEE OF THE COUNCIL**" means a committee appointed by the Council of Members with specific Terms of Reference, Chair, and Membership approved by the Council.

"**MOTION**" means a formal proposition to be discussed and voted on during the course of a meeting.

"**OFFICER**" means an employee of the Trust.

"**BUDGET**" means a resource, expressed in financial terms, approved by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.

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

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

2. GENERAL INFORMATION

The purpose of the Council of Members Standing Orders is to ensure that the highest standards of Corporate Governance and conduct are applied to all Council meetings and associated deliberations. The Council shall at all times seek to comply with the NHS Foundation Trust Code of Governance that is founded on “The Combined Code”.

- 2.1 All business shall be conducted in the name of the Trust.
- 2.2 The Board of Directors shall appoint trustees to administer separately charitable funds received by the Trust and for which they are accountable to the Charity Commission.
- 2.3 A Member who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her function as a Member save where the Member has acted recklessly. On behalf of the Council of Members, and as part of the Trust’s overall insurance arrangements the Board shall put in place appropriate insurance provision to cover such indemnity.

3. COMPOSITION OF THE COUNCIL OF MEMBERS

- 3.1 The composition of the Council of Members shall be in accordance with para 10 of the Trust’s Constitution.
- 3.2 Appointment and removal of the Chairman and Deputy Chairman of the Trust. The Chairman or Deputy Chairman of the Trust will preside over meetings of the Council of Members, such persons being appointed and removed by the Members in accordance with the provisions of paragraphs 21 to 23 of the Constitution.
- 3.3 **Duties of Deputy Chairman** - Where the Chairman of the Trust has died or has otherwise ceased to hold office or where he has been unable to perform his/her duties as Chairman owing to illness, absence from England and Wales or any other cause, references to the Chairman shall, so long as there is no Chairman able to perform his/her duties, be taken to include references to the Deputy Chairman.

4. MEETINGS OF THE COUNCIL OF MEMBERS

4.1 Meetings held in Public

- 4.1.1 Meetings of the Council of Members must be open to the public subject to the provisions of paragraph 4.1.2 below.
- 4.1.2 The Council of Members may resolve to exclude members of the public from any meeting or part of a meeting on the grounds that:
 - (i) Publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted; or
 - (ii) There are special reasons stated in the resolution and arising from the nature of the business of the proceedings.
- 4.1.3 The Chairman may exclude any member of the public from the meeting of the Council if he is interfering with or preventing the reasonable conduct of the meeting.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

- 4.1.4** Meetings of the Council of Members shall be held four times each year at times and places that the Council of Members may determine.
- 4.1.5** The Council may invite the Chief Executive and other appropriate Directors, to attend any meeting of the Council to enable Members to raise questions about Trust affairs.

4.2 Calling Meetings

Notwithstanding 4.1.4 above, the Chairman may, in exceptional circumstances, call a meeting of the Council of Members at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by a majority of the Council Members, or if without so refusing the Chairman does not call a meeting within fourteen days after requisition to do so, then the Council Members may forthwith call a meeting provided they have been requisitioned to do so by more than 50% of Council Members.

4.3 Notice of Meetings

- 4.3.1** Before each meeting of the Council of Members, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman, or by an officer of the Trust authorised by the Chairman to sign on his behalf, shall be delivered to every Council Member, or sent by post to the usual place of residence of such Council Member, so as to be available to him at least five clear days before the meeting. Lack of service of the notice on any Council Member shall not affect the validity of a meeting subject to paragraph 4.3.3.
- 4.3.2** Where a resolution is to be proposed to remove the Chair or a Non Executive Director, not less than 28 clear days notice of such resolution shall be given. The requirement to give such notice shall not be waived under clause 4.3.3.
- 4.3.3** Save in respect of a notice required under 4.3.2, the Chairman may waive the requirement for notice under 4.3.1 on the receipt of written agreement of at least 50% of Council Members.
- 4.3.4** In the case of a meeting called by Council Members in default of the Chairman, the notice shall be signed by those Council Members calling the meeting and no business shall be transacted at the meeting other than that specified in the notice. Failure to serve such a notice on more than three quarters of Council Members will invalidate the meeting. A notice will be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post.

4.4 Setting the Agenda

- 4.4.1** The Council of Members may determine that certain matters shall appear on every agenda for a meeting of the Council and shall be addressed prior to any other business being conducted.
- 4.4.2** A Council Member desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least ten clear days before the meeting. Requests made less than ten days before a meeting may be included on the agenda at the discretion of the Chairman.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

4.6 Notices of Motions

- 4.6.1** A Council Member desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the Meeting to the Chairman, who shall insert in the Agenda for the Meeting.. This paragraph shall not prevent any motion being moved during the meeting, without notice, on any business mentioned on the agenda subject to section 4.3 of these Standing Orders.
- 4.6.2** A motion or amendment, once moved and seconded, may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chairman.
- 4.6.3** Notice of motion to amend or rescind any resolution (or the general substance of any resolution), which has been passed within the preceding six calendar months, shall bear the signature of the Members who give it and also the signature of four other Members. When the Council has disposed of any such motion it shall not be competent for any Council Member, other than the Chairman, to propose a motion to the same effect within six months; however the Chairman may do so if he/she considers it appropriate.
- 4.6.4** The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.
- 4.6.5** When a motion is under discussion or immediately prior to discussion it shall be open to a Council Member to move;
- (a) An amendment to the motion.
 - (b) The adjournment of the discussion or the meeting.
 - (c) The appointment of an ad hoc committee to deal with a specific item of business.
 - (d) That the meeting proceeds to the next business.
 - (e) That the motion be now put.

Such a motion, if seconded, shall be disposed of before the motion that was originally under discussion or about to be discussed. No amendment to the motion shall be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the motion.

In the case of motions under (d) and (e), to ensure objectivity, motions may only be put by a Council Member who has not previously taken part in the debate.

4.7 Chairman's Ruling

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

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

4.8 Voting

- 4.8.1** Decisions at meetings shall be determined by a majority of the votes of the Council Members present and voting. In the case of any equality of votes, the person presiding shall have a second or casting vote.
- 4.8.2** All decisions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Council Members present so request.
- 4.8.3** If at least one-third of the Council Members present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Council Member present voted or abstained.
- 4.8.4** If a Council Member so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 4.8.5** In no circumstances may an absent Council Member vote by proxy. Absence is defined as being absent at the time of the vote.

4.9 Suspension of Standing Orders (SOs)

- 4.9.1** Except where this would contravene any statutory provision or guidance issued by the Independent Regulator any one or more of these Standing Orders may be suspended at any meeting, provided that at least two-thirds of Members of the Council are present and that a majority of those present vote in favour of suspension.
- 4.9.2** A decision to suspend SOs shall be recorded in the minutes of the meeting.
- 4.9.3** A separate record of matters discussed during the suspension of SOs shall be made and shall be available to the Directors.
- 4.9.4** No formal business may be transacted while SOs are suspended.
- 4.9.5** The Trust's Audit Committee shall review every decision to suspend SOs.

4.10 Variation and Amendment of Standing Orders

These Standing Orders shall be amended only if;

- (a) notice of motion has been given; and
- (b) no fewer than half the total of the Council Members vote in favour of amendment; and
- (c) at least two-thirds of the Council Members are present; and
- (d) the variation proposed does not contravene a statutory provision
- (e) approval for change will take no effect until it has been agreed by the Trust Board and approved by the Independent Regulator of NHS Foundation Trusts

4.11 Record of Attendance

The names of the Council Members present at the meeting shall be recorded in the minutes.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

4.12 Minutes

4.12.1 The Minutes of the proceedings of the meeting shall be drawn up and maintained as a public record. They will be submitted for agreement at the next meeting where the person presiding at it will sign them.

4.12.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

4.12.3 Minutes shall be circulated in accordance with the Council Members' wishes. The Minutes of the meeting shall be made available to the public except for minutes relating to business conducted when members of the public are excluded under the terms of Section 4.1 of these Standing Orders

4.13 Quorum

4.13.1 No business shall be transacted at a meeting of the Council of Members unless at least 11 Public 2 Staff and 5 appointed members of the Council are present. Should a meeting not be quorate the meeting would be adjourned for 21 days or such other period as the Chairman shall notify to the Council Members, at which time whoever attended the reconvened meeting would constitute a quorum.

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

4.14 Membership of the Council

4.14.1 The Council will review their membership on a six monthly basis to ensure it remains appropriate.

5. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

5.1 Committees

The Council of Members may agree from time to time to establish committees or sub-committees to advise the Council of Members in the performance of its duties. To ensure clarity of purpose the constitution and Terms of Reference of these committees, or sub-committees are approved by the Council. Decision-making cannot be delegated to committees or sub-committees.

5.2 Delegation

The Council of Members may not delegate its duties to any committee or sub committee or individual Council Member or to any other person or group of persons.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

6. COMMITTEES – FURTHER PROVISIONS

- 6.1** The Council of Members may appoint committees of the Council consisting wholly of persons who are Council Members to advise the Council in performing its duties. Non-Members may attend such committees if appropriate under the Committee's Terms of Reference but they shall have no vote.
- 6.2** A committee so appointed may appoint sub-committees consisting wholly of persons who are Council Members. Non-Members may attend such committees if appropriate under the Committee's Terms of Reference but they shall have no vote.
- 6.3** These Standing Orders, as far as they are applicable, shall apply also, with appropriate alteration, to meetings of any committees or sub-committees so established by the Council.
- 6.4** Each such committee or sub-committee shall have such Terms of Reference and remit and be subject to such conditions (as to reporting back to the Council) as the Council shall decide. Such Terms of Reference are to be read in conjunction with the Constitution.
- 6.5** The Council of Members shall approve the membership to all committees/sub committees that it has formally constituted and shall determine the Chairman of each committee/sub committee.

7. CONFIDENTIALITY

- 7.1** A Member of the Council of Members or an attendee on a committee of the Council shall not disclose a matter dealt with, or brought before, the Council of Members without its permission or until the committee shall have reported to the Council or shall otherwise have concluded on that matter.
- 7.2** A Member or a Non-Member in attendance at a committee shall not disclose any matter dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Council of Members or committee resolves that it is confidential.

8. DECLARATION OF INTERESTS AND REGISTER OF INTERESTS

8.1 Declaration of Interests

Members are required to comply with the Trust's Standards of Business Conduct (Appendix 1 to the Trust's Constitution) and to declare interests that are relevant and material to the Council. All Council Members should declare such interests on appointment and on any subsequent occasion that a conflict arises.

8.1.1 Interests regarded as "relevant and material" are:

- (a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies).
- (b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.

- (c) Employment with any private company, business or consultancy.
- (d) Significant share holdings (more than 5%) in organisations likely or possibly seeking to do business with the NHS.
- (d) A position of authority in a charity or voluntary organisation in the field of health and social care.
- (f) Any connection with a voluntary or other organisation contracting for NHS services.
- (g) Employment or Membership within any Health and Social Care provider or NHS Trust.

8.1.2 If a Council Member has any doubt about the relevance of an interest, he should discuss it with the Chairman who shall advise him whether or not to disclose the interest.

8.1.3 At the time Council Members' interests are declared, they should be recorded in the Council of Members minutes and entered on a Register of Interests of Council Members to be maintained by the Trust Board Secretary. Any changes in interests should be declared at the next Council meeting following the change occurring.

8.1.4 Members' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's annual report.

8.1.5 During the course of a Council meeting, if a conflict of interest is established, the Council Member concerned shall withdraw from the meeting and play no part in the relevant discussion or decision.

8.1.6 There is no requirement for the interests of Council Members' spouses or partners to be declared. [Note however that regulations require that the interest of Members' spouses or partners, if living together, in contracts should be declared].

8.2 Register of Interests

8.2.1 The Registrar will ensure that a Register of Interests is established to record formally declarations of interests of Council Members.

8.2.2 Details of the Register will be kept up to date and reviewed annually.

8.2.3 The Register will be available to the public.

9. COMPLIANCE - OTHER MATTERS

9.1 Council Members of the Trust shall comply with Standing Financial Instructions prepared by the Director of Finance and approved by the Board of Directors.

9.2 Council Members must behave in accordance with the seven Nolan Principles of Behaviour in Public Life (and the Trust's Code of Conduct as amended from time to time as detailed in Appendix 1 to the Trust's Constitution).

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

10. RESOLUTION OF DISPUTES WITH BOARD OF DIRECTORS

10.1 The Council of Members has three main roles:

- Advisory – It communicates to the Board the wishes of Members and the wider community
- Guardianship – It ensures that the Trust is operating in accordance with its Statement of Purpose and is compliant with its Authorisation. In this regard it acts in a trustee role for the welfare of the organisation
- Strategic – It advises on a longer-term direction to help the Board effectively determine its policies.

10.2 The Board of Directors has overall responsibility for running the affairs of the Trust. Its role is to:

- Take advice from the Council
- Set a strategic direction
- Set organisational and operational targets
- Manage risk
- Assess achievement against the above objectives
- Ensure that action is taken to eliminate or minimise, as appropriate, adverse deviations from objectives
- Ensure that the highest standards of Corporate Governance are applied throughout the organisation.

10.3 Should a dispute arise between the Council and the Board of Directors then the disputes resolution procedure set out below recognises the different roles of the Council and the Board as described above.

10.3.1 The Chairman, or Deputy Chairman (if the dispute involves the Chairman) shall first endeavour through discussion with Council Members and Directors or, to achieve the earliest possible conclusion, appropriate representatives of them to resolve the matter to the reasonable satisfaction of both parties.

10.3.2 Failing resolution under 10.3.1 above then the Board or the Council, as appropriate, shall at its next formal meeting approve the precise wording of a Disputes Statement setting out clearly and concisely the issue or issues giving rise to the dispute.

10.3.3 The Trust Chairman shall ensure that the Disputes Statement, without amendment or abbreviation in any way, shall be an Agenda Item and Agenda Paper at the next formal meeting of the Board or Council as appropriate. That meeting shall agree the precise wording of a Response to Disputes Statement.

10.3.4 The Chairman or Deputy Chairman (if the dispute involves the Chairman) shall immediately, or as soon as is practical, communicate the outcome to the other party and deliver the written Response to Disputes Statement. If the matter remains unresolved or only partially resolved then the procedure outlined in 10.3.1 above shall be repeated.

ANNEX 7 – COUNCIL OF MEMBERS STANDING ORDERS

- 10.3.5** If, in the opinion of the Chairman or Deputy Chairman (if the dispute involves the Chairman), and following the further discussions prescribed in 10.3.4, there is no further prospect of a full resolution or, if at any stage in the whole process, in the opinion of the Chairman or Deputy Chairman, as the case may be, there is no prospect of a resolution (partial or otherwise) then he shall advise the Council and the Board accordingly.
- 10.3.6** On the satisfactory completion of this disputes process the agreed changes shall be implemented.
- 10.3.7** On the unsatisfactory completion of this disputes process the view of the Board of Directors shall prevail.
- 10.3.8** Nothing in this procedure shall prevent the Council, if it so desires, from informing Monitor that, in the Council's opinion, the Board has not responded constructively to concerns of the Council or that the Trust is not meeting the Terms of its Authorisation.

11. COUNCIL PERFORMANCE

The Chairman shall, at least annually, lead a performance assessment process for the Council to enable the Council to review its roles, structure, composition and procedures taking into account emerging best practice.

12. CHANGES TO STANDING ORDERS

Changes to the Council of Members Standing Orders shall be agreed by the Board of Directors and approved by the Independent Regulator of NHS Foundation Trusts

**KETTERING GENERAL HOSPITAL NHS FOUNDATION
TRUST**

ANNEX 8

BOARD STANDING ORDERS

OCTOBER 2008

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ANNEX 8 – BOARD STANDING ORDERS

SECTION A

1. Interpretation and Definitions for Standing Orders

1.1 Save as otherwise permitted by law, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the Chief Executive or Secretary to the Board).

1.2 Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990 and other Acts relating to the National Health Service or in the Financial Regulations made under the Acts shall have the same meaning in these Standing Orders and in addition:

"ACCOUNTING OFFICER" means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.

"TRUST" means Kettering General Hospital NHS Foundation Trust.

"BOARD" means the Board of Directors, formally constituted in accordance with the Constitution and consisting of the Chairman, and Non-Executive Directors, appointed by the Council of Members, and the Executive Directors, appointed by the Non-Executive Directors and (except for his own appointment) by the Chief Executive.

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

"BUDGET HOLDER" means the Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.

"CHAIRMAN OF THE BOARD (OR TRUST)" is the person appointed by the Council of Members to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Deputy Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

"CHIEF EXECUTIVE" means the chief officer of the Trust.

"CLINICAL GOVERNANCE AND RISK MANAGEMENT COMMITTEE" means a committee whose functions are concerned with the arrangements for the purpose of monitoring and improving the quality of healthcare for which the Kettering General Hospital NHS Foundation Trust has responsibility.

"COMMISSIONING" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.

"COMMITTEE OF THE BOARD" means a committee or sub-committee appointed by the Board of Directors with specific Terms of Reference, Chair and membership approved by the Board.

"COMMITTEE MEMBERS" means persons formally appointed by the Board to sit on or to chair specific committees.

ANNEX 8 – BOARD STANDING ORDERS

"CONTRACTING AND PROCURING" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.

"FINANCE DIRECTOR" means the Chief Financial Officer of the Trust.

"DIRECTOR" means a person appointed to the Board of Directors in terms of paragraph 19 of the Constitution.

"FUNDS HELD ON TRUST" shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept as trust funds. Such funds may or may not be charitable.

"COUNCIL" means Council of Members, formally constituted in accordance with the Constitution meeting in public and presided over by the Chairman.

"COUNCIL MEMBER" means a person elected or appointed to the Council of Members in terms of paragraph 10 of the Constitution.

"NOMINATED OFFICER" means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.

"OFFICER" means employee of the Trust or any other person holding a paid appointment or office with the Trust.

"SECRETARY" means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the law, Standing Orders, and Monitor's guidance.

"SFIS" means Standing Financial Instructions.

"SOs" means Standing Orders.

"DEPUTY CHAIRMAN" means the Non Executive Director appointed by the Council of Members to take on the Chairman's duties if the Chairman is absent for any reason.

"SENIOR INDEPENDENT DIRECTOR" means a Non Executive Director appointed by the Board in consultation with the Council of Members who may act as the Deputy Chairman.

"MONITOR" means the Independent Regulator for NHS Foundation Trusts established under the Health and Social Care (Community Health and Standards) Act 2003 to regulate NHS Foundation Trusts.

ANNEX 8 – BOARD STANDING ORDERS

SECTION B – STANDING ORDERS

1. INTRODUCTION

1.1 Statutory Framework

The Kettering General Hospital NHS Foundation Trust (the Trust) is a public benefit corporation that was established in accordance with the provisions of Chapter 5 of the National Health Service Act 2006.

The functions of the Trust are conferred by this legislation.

As a statutory body, the Trust has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to Monitor.

The Regulatory Framework requires the Board of Directors to adopt Standing Orders for the practice and procedure of the Board of Directors.

The Board of Directors will conduct business in as open a way as possible and will:-

1. Observe the Nolan Principles of Public Life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
2. At all times seek to comply with the NHS Foundation Trust Code of Governance; and
3. At all times seek to comply with the Combined Code of Corporate Governance 2008.

1.2 Delegation of Powers

The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under the Standing Order relating to the Arrangements for the Exercise of Functions (SO 5) the Trust is given powers to "make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee or sub-committee or appointed by virtue of Standing Order 4 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit". Delegated Powers are covered in a separate document (Reservation of Powers to the Board and Delegation of Powers). This document should be read in conjunction with the Constitution .

2. THE TRUST BOARD: COMPOSITION, APPOINTMENT OF DIRECTORS AND SECRETARY AND INDEMNITY ARRANGEMENTS

2.1 Composition of the Membership of the Trust Board

The Composition of the Board shall be in accordance with the Constitution.

The number of Directors may be increased, with the approval of the Board provided always that at least half the Board, excluding the Chairman, comprises Non Executive Directors determined by the Board to be independent

The Trust Board will be supported by the Trust Board Secretary who will attend Board meetings in that capacity.

2.2 Appointment and removal of Chairman and Members of the Trust Board

- 2.2.1** The Chairman and Non Executive Directors are appointed/removed by the Council of Members in accordance with paragraph 21 of this Trust's Constitution.
- 2.2.2** In accordance with paragraph 24 of this Trust's Constitution, via the Nominations and Remuneration Committee, the Non Executive Directors shall appoint the Chief Executive (which appointment shall be approved by the Council of Members) as defined in Annex 6, paragraph 7. A committee consisting of the Chairman, Chief Executive and the other Non Executive Directors shall appoint or remove the other Executive Directors.
- 2.2.3** The Chairman and Non Executive Directors may be removed from office in the following circumstances (subject to the procedures laid down in paragraph 21 of this Trust's Constitution and Annex 6, paragraph 7.6) :
- i. It is no longer in the interests of the NHS for the appointment to continue;
 - ii. Non-attendance at meetings for a period of 3 months unless the absence was due to a reasonable cause and they will be able to attend meetings again within a period considered reasonable by the Chairman;
 - iii. If they do not properly comply with the requirements of the Constitution with regard to pecuniary interests in matters and discussion at meetings of the Trust;
 - iv. If an annual appraisal or sequence of appraisals is unsatisfactory;
 - v. If they no longer enjoy the confidence of the Board;
 - vi. If they lose the confidence of the Council of Members or the local community in a substantial way;
 - vii. If the Chairman fails to ensure that the Board monitors the performance of the Trust in an effective way;
 - viii. If they fail to deliver work against pre-agreed targets incorporated within their annual objectives;
 - ix. If there is a terminal breakdown in essential relationships e.g. between the Chairman and Chief Executive or between a Non Executive Director and the rest of the Board;
 - x. When a new Chairman is appointed to a Board they will be expected to review the objectives of all Board members. They may at the end of their term of office make recommendation to the Nomination and Remuneration Committee regarding their continued appointment;
 - xi. If they are no longer eligible to be a Member of the Public Constituency
 - xii. See also paragraph 26 of this Trust's Constitution – Board of Directors - disqualification.

2.3 Terms of Office of the Chairman and Members of the Trust Board

The initial Chair and Non Executive Directors will serve for a minimum of 12 months (if the remaining time on their current contract is less than 12 months) up to a maximum of the remainder of their existing contracts, from the date of Authorisation.

Thereafter, the Chairman and Non Executive Directors will hold a term of 3 years. If appropriate a further term may be served. If appointment for a 3rd term is sought a "particularly rigorous" review is required, with annual appointments thereafter.

2.4 Independence of Directors and Appointment and Powers of Deputy Chairman

The Board shall approve a formal declaration process to enable it to assess the independent status or otherwise of each Non Executive Director. The process shall apply to all proposed new appointees and annually to those already appointed. The Chief Executive and Chairman of the Audit Committee shall review the declarations and shall report the outcome to the Trust Board.

The declaration of the Chairman of the Audit Committee, himself a Non Executive Director under the terms of this Trust's Constitution, shall be reviewed and the outcome reported to the Board by the Trust Chairman and the Chief Executive. The Board shall then determine the status of each Non Executive Director.

The Board shall, in consultation with the Council of Members appoint one of the Independent Non Executive Directors as the 'Senior Independent Director'. The Board shall normally, but not necessarily, appoint the Deputy Chairman to this position, as defined in Annex 6 of this Constitution (Appointment of Non Executive Directors).

For the purpose of enabling the proceedings of the Trust to be conducted in the absence of the Chairman, the Council of Members shall, in accordance with paragraph 23 of this Trust's Constitution, appoint one of the Non Executive Directors to be Deputy Chairman.

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

2.5 Role of Board Members

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

(1) Executive Directors

Executive Directors shall exercise their authority within the terms of these Standing Orders and Standing Financial Instructions and the Scheme of Delegation.

(2) Chief Executive

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

(3) Finance Director

The Finance Director shall be responsible for the provision of financial advice to the Trust and to its Members and for the supervision of financial control and accounting systems. He/she shall be responsible along with the Chief Executive for ensuring the discharge of obligations under relevant Financial Directions.

(4) Non-Executive Directors

The Role of the Non Executive Directors will include the following:

- Challenge and help develop proposals on strategy.
- Scrutinise the performance of management in meeting agreed goals and objectives.
- Monitor the reporting of performance.
- Ensure the integrity of financial and clinical outcome information.

- Ensure financial and clinical quality controls and systems of risk management are robust and defensible.
- Determine appropriate levels of remuneration of Executive Directors.
- Be involved in succession planning for Board members.
- Ensure effective dialogue with the Council of Members.

(5) **Chairman**

The Chairman shall be responsible for the operation of the Board and chair all Board meetings when present. The Chairman has certain delegated executive powers. The Chairman must comply with the terms of appointment and with these Standing Orders.

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

(6) **Senior Independent Director**

The Board shall appoint a Senior Independent Director in consultation with the Council of Members who may act as the Deputy Chairman. The Senior Independent Director may meet with the other members of the Board without the Chairman present on at least an annual basis in order to evaluate and appraise the performance of the Chairman.

He/she may also act as an alternative contact point for officers or members with concerns which have failed to be resolved or would not be appropriate through the normal channels of the Chairman, Chief Executive or Finance Director.

(7) **Board Secretary**

The Board shall appoint a Secretary who, under the direction of the Chairman, shall ensure good information flows within the Board and Council and their Committees, between Directors and Council Members, and between senior management and Non-Executive Directors. The Secretary shall also advise the Board and Council on all governance matters and shall facilitate induction and professional development as required.

2.6 Corporate Role of the Board

- (1) All business shall be conducted in the name of the Trust.
- (2) All funds received in trust shall be held in the name of the Trust as corporate trustee.
- (3) The Board's Nomination and Remuneration Committee shall meet to appraise the Chairman's performance, at least annually, and on such other occasions as are deemed by the Board to be appropriate, with or without the Chairman present, and led by the Senior Independent Director. The Committee shall prepare a written appraisal and circulate it in confidence to all Non Executive Directors including the Chairman. If appropriate, and with the approval of the majority of the Non Executive Directors, the Senior Independent Director shall make recommendations to the Chairman or he shall appraise the Chief Executive of the Committee's report and together they may make recommendations to the Chairman. Exceptionally the Senior Independent Director may, with the approval of the Committee, disclose the Committee's recommendations to the Board sitting in Private Session.

The Board shall approve a formal Letter of Understanding between the Chairman and

Chief Executive setting out, as clearly as possible, a division of their responsibilities. The Letter shall be reviewed and modified, as the Board shall, from time to time, decide.

A Director, or Officer of the Trust, who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her function as a Director save where the Director has acted recklessly. On behalf of the Directors, and as part of the Trusts overall insurance arrangements the Board of Directors shall put in place appropriate insurance provision to cover such indemnity.

Non Executive Directors may, at the Trust's expense, seek external advice or appoint an external adviser on any material matter of concern provided the decision to do so is a collective one by the majority of Non Executive Directors.

2.7 Schedule of Matters Reserved to the Board and Scheme of Delegation

The Board has resolved that certain powers and decisions may only be exercised by The Board in formal session. These powers and decisions are set out in the 'Schedule of Matters Reserved to the Board' and should be read in conjunction with the Constitution. Those powers which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

2.8 Lead Roles for Board Members

The Chairman will ensure that the designation of Lead roles or appointments of Board members as required by Monitor or as set out in any statutory or other guidance will be made in accordance with that guidance or statutory requirement (e.g. appointing a Lead Board Member with responsibilities for Infection Control or Child Protection Services etc.).

3. MEETINGS OF THE TRUST

3.1 Calling meetings

- (1) Ordinary meetings of the Board shall be held at regular intervals at such times and places as the Board may determine.
- (2) The Chairman of the Trust may call a meeting of the Board at any time.
- (3) One third or more members of the Board 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 members signing the requisition may forthwith call a meeting.

3.2 Notice of Meetings and the Business to be transacted

- (1) Before each meeting of the Board a written notice specifying the business proposed to be transacted shall be delivered to every Board member, or sent by post to the usual place of residence of each Board member, so as to be available to members at least three 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 member shall not affect the validity of a meeting.
- (2) Notwithstanding the above requirement for notice, the Chairman may waive notice on written receipt of the agreement of at least two-thirds of Directors (Executive and Non Executive Directors taken together) but to include a minimum of two Executive Directors and two Non Executive Directors.

- (3) In the case of a meeting called by Board members in default of the Chairman calling the meeting, the notice shall be signed by those members.
- (4) No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6.
- (5) A Board member 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.

3.3 Agenda and Supporting Papers

The Board may determine that certain matters shall appear on every agenda for a meeting of the Board and shall be addressed prior to any other business being conducted.

The Agenda will be sent to members 6 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.

3.4 Petitions

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

3.5 Notice of Motion

- (1) Subject to the provision of Standing Orders 3.7 'Motions: Procedure at and during a meeting' and 3.8 'Motions to rescind a resolution', a member of the Board 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.
- (2) The notice shall be delivered at least 10 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.

3.6 Emergency Motions

Subject to the agreement of the Chairman, and subject also to the provision of Standing Order 3.7 'Motions: Procedure at and during a meeting', a member of the Board may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Trust Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chairman's decision to include the item shall be final.

3.7 Motions: Procedure At and During a Meeting

i) Who may propose?

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

ii) **Contents of motions**

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

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

iii) **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.

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.

iv) **Rights of reply to motions**

a) **Amendments**

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

b) **Substantive/original motion**

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

v) **Withdrawing a motion**

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

vi) **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 member/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 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.

3.8 Motion to Rescind a Resolution

- (1) Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member who gives it and also the signature of three other members, and before considering any such motion of which notice shall have been given, the Trust Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.
- (2) When any such motion has been dealt with by the Trust Board it shall not be competent for any director/member 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.

3.9 Chairman of Meeting

- (1) At any meeting of the Trust Board the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy Chairman (if the Board has appointed one), if present, shall preside.
- (2) If the Chairman and Deputy Chairman are absent, such Non Executive Director as the Board members present shall choose shall preside.

3.10 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.

3.11 Quorum

- (i) No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and members (including at least one Executive Director and at least one Non Executive Director) is present.
- (ii) If the Chairman or member 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 SO No.7) 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.

3.12 Voting

- (i) Save as provided in Standing Orders 3.13 - Suspension of Standing Orders and 3.14 - 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 members present and voting on the question.
- (ii) Each Director and Non Executive Director shall be entitled to exercise one vote. For the avoidance of doubt, in the event of equality of votes, the Chairman shall always have a casting vote.

- (iii) 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.
- (iv) If at least one third of the Board members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- (v) If a Board member so requests, their vote shall be recorded by name.
- (vi) In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- (vii) An officer who has been appointed formally by the Board to act up as an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy shall be entitled to exercise the voting rights of the Executive Director. An officer attending the Board to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An officer's status when attending a meeting shall be recorded in the minutes.

3.13 Suspension of Standing Orders

- (i) Except where this would contravene any statutory provision or the rules relating to the Quorum (SO 3.11), 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 are present (including at least two Non Executive Directors and at least two Executive Directors) and that at least two-thirds of those members present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Trust Board's minutes.
- (ii) A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the Trust.
- (iii) No formal business may be transacted while Standing Orders are suspended.
- (iv) The Audit Committee shall review every decision to suspend Standing Orders.

3.14 Variation and Amendment of Standing Orders

These Standing Orders shall not be varied except in the following circumstances:

- upon a notice of motion under Standing Order 3.5;
- upon a recommendation of the Chairman or Chief Executive included on the agenda for the meeting;
- that two thirds of the Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's Non-Executive Directors vote in favour of the amendment;
- providing that any variation or amendment does not contravene a statutory provision. Direction made by the Independent Regulator of NHS Foundation Trusts and is approved by the Independent Regulator.

3.15 Record of Attendance

The names of the Chairman and Directors/members present at the meeting shall be recorded.

3.16 Minutes

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

No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

4. APPOINTMENT OF COMMITTEES AND SUB COMMITTEES

4.1 Appointment of Committees

The Trust shall determine the membership and terms of reference of committees and sub-committees and shall if it requires, receiving and considering reports of such committees.

4.2 Applicability of Standing Orders and Standing Financial Instructions to Committees

The Standing Orders and Standing Financial Instructions of the Trust, as far as they are applicable, shall as appropriate apply to meetings and any committees established by the Trust. In which case the term "Chairman" is to be read as a reference to the Chairman of other committee as the context permits, and the term "member" is to be read as a reference to a member of other committee also as the context permits. (There is no requirement to hold meetings of committees established by the Trust in public.)

4.3 Terms of Reference

Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. . Such terms of reference should be read in conjunction with the Constitution..

4.4 Delegation of Powers by Committees to Sub-Committees

Where committees are authorised to establish sub-committees they may not delegate executive powers to the sub-committee unless expressly authorised by the Trust Board.

4.5 Approval of Appointments to Committees

The Board shall approve the appointments to each of the committees that it has formally constituted. Where the Board determines that persons, who are neither members nor officers, shall be appointed to a committee the terms of such appointment shall be within the powers of the Board. Those appointed would be entitled to the payment of travelling and other allowances.

4.6 Appointments for Statutory Functions

Where the Board is required to appoint persons to a committee and/or to undertake statutory functions and where such appointments are to operate independently of the Board such appointment shall be made in accordance with the regulations and directions laid down by the Board of Directors.

4.7 Committees Established by the Trust Board

The committees and sub-committees established by the Board are:

4.7.1 Audit Committee

In line with the requirements of the 2006 Act and Monitor, an Audit Committee will be established and constituted to provide the Trust Board with an independent and objective

review on its financial systems, financial information and compliance with laws, guidance, and regulations applicable to the Trust. The Terms of Reference will be approved by the Trust Board and reviewed on a periodic basis.

The NHS Foundation Trust Code of Governance recommends a minimum of three Non Executive Directors be appointed, unless the Board decides otherwise and the Terms of Authorisation require that at least one must have recent and relevant financial experience.

4.7.2 Nominations and Remuneration Committee

A Nominations and Remuneration Committee will be established and constituted.

The committee shall be comprised exclusively of a minimum of 3 Non Executive Directors, who are independent of management.

The Nomination & Remuneration Committee will have delegated responsibility for setting remuneration and terms of service for the Chief Executive and other Executive Directors.

including:

- (i) all aspects of salary (including any performance-related elements/bonuses);
- (ii) provisions for other benefits, including pensions and cars;
- (iii) arrangements for termination of employment and other contractual terms.

4.7.3 Charitable Funds Committee

In line with its role as a corporate trustee for any funds held in trust, either as charitable or non charitable funds, the Trust Board will establish a Trust and Charitable Funds Committee to administer those funds in accordance with any statutory or other legal requirements or best practice required by the Charities Commission.

The provisions of this Standing Order must be read in conjunction with Standing Order 2.8 and Standing Financial Instructions.

4.7.4 Other Committees

The Board may also establish such other committees as required to discharge the Trust's responsibilities.

4.8 Confidentiality

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

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

5. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS BY DELEGATION

5.1 Delegation of Functions to Committees and Directors

The Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee or sub-committee appointed by virtue of Standing Order 4, or by

an individual Director, in each case subject to such restrictions and conditions as the Trust thinks fit.

5.2 Emergency Powers and Urgent Decisions

The powers, which the Board has reserved, to itself within these Standing Orders (see Standing Order 2.9) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman after having consulted at least two Non Executive Directors. The exercise of such powers by the Chief Executive and Chairman shall be notified and recorded to the next formal meeting of the Trust Board.

5.3 Delegation to Committees

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

5.4 Delegation to Officers

5.4.1 Those functions of the Trust which have not been retained as reserved by the Board or delegated to other committee or sub-committee shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the Trust.

5.4.2 All powers delegated by the Chief Executive can be re-assumed by him/her should the need arise. As Accounting Officer the Chief Executive is accountable through Monitor to Parliament for the funds entrusted to the Trust.

5.4.3 The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals, which shall be considered and approved by the Board. The Chief Executive may periodically propose amendment to the Scheme of Delegation, which shall be considered and approved by the Board.

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

5.4.5 Powers are delegated to Directors and officers on the understanding that they will exercise powers in a matter which, in their judgement, is not likely to be a cause for public concern.

5.4.6 Directors' Ability to Delegate their own Delegated Powers. The Scheme of Delegation shows only the "top level" of delegation within the Trust. The Scheme is to be used in conjunction with the system of budgetary control and other established procedures within the Trust.

5.4.7 Absence of Directors or Officer to Whom Powers have been Delegated. In the absence of a Director or officer to whom powers have been delegated those powers shall be exercised by that Director or officers superior unless alternative arrangements have been approved by the Board. If the Chief Executive is absent

powers delegated to him/her may be exercised by the Chairman after taking appropriate advice from the Finance Director

5.5 Schedule of Matters Reserved to the Trust and Scheme of Delegation of Powers

The arrangements made by the Board as set out in the "Schedule of Matters Reserved to the Board" and "Scheme of Delegation" of powers should be read in conjunction with the Constitution.

5.6 Duty to Report Non-Compliance with Standing Orders and Standing Financial Instructions

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

6. OVERLAP WITH OTHER TRUST POLICY STATEMENTS/PROCEDURES, REGULATIONS AND THE STANDING FINANCIAL INSTRUCTIONS

6.1 Policy Statements: General Principles

The Trust Board will from time to time agree and approve Policy Statements/ Procedures, which will apply to all, or specific groups of staff employed by Kettering General Hospital NHS Foundation Trust. The decisions to approve such Policies and Procedures will be recorded in an appropriate Trust Board minute.

6.2 Specific Policy Statements

Notwithstanding the application of SO 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following Policy statements:

- the Standards of Business Conduct and Conflicts of Interest Policy for Kettering General Hospital NHS Foundation Trust staff;
- the staff Disciplinary and Appeals Procedures adopted by the Trust both of which should be read in conjunction with Standing Orders.

6.3 Standing Financial Instructions

Standing Financial Instructions adopted by the Trust Board in accordance with the Financial Regulations should be read in conjunction with the Constitution.

6.4 Specific Guidance

Notwithstanding the application of SO 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance:

- Caldicott Guardian 1997;
- Human Rights Act 1998;
- Freedom of Information Act 2000.

7. DUTIES AND OBLIGATIONS OF BOARD MEMBERS / DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS

7.1 Declaration of Interests

7.1.1 Requirements for Declaring Interests and Applicability to Board Members

The regulatory framework requires Trust Board Members to declare interests, which are relevant and material to the Trust Board Secretary. All existing Board members should declare such interests. Any Board members appointed subsequently should do so on appointment.

7.1.2 Interests which are Relevant and Material

- (i) Interests which should be regarded as "relevant and material" are:
- a) Directorships, including Non Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
 - b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
 - c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
 - d) A position of authority in a charity or voluntary organisation in the field of health and social care;
 - e) Any connection with a voluntary or other organisation contracting for NHS services;
 - f) Research funding/grants that may be received by an individual or their department;
 - g) Interests in pooled funds that are under separate management.
- (ii) Any member of the Trust Board who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Order 7.3 below and elsewhere) has any pecuniary interest, direct or indirect, the Board member shall declare his/her interest by giving notice in writing of such fact to the Trust as soon as practicable.

7.1.3 Advice on Interests

If Board members have any doubt about the relevance of an interest, this should be discussed with the Chairman of the Trust or with the Trust Board Secretary.

Financial Reporting Standard No 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

7.1.4 Recording of Interests in Trust Board Minutes

At the time Board members' interests are declared, they should be recorded in the Trust Board minutes.

Any changes in interests should be declared at the next Trust Board meeting following the change occurring and recorded in the minutes of that meeting.

7.1.5 Publication of Declared Interests in Annual Report

Board members' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

7.1.6 Conflicts of Interest Which Arise During the Course of a Meeting

During the course of a Trust Board meeting, if a conflict of interest is established, the Board member concerned should withdraw from the meeting and play no part in the relevant discussion or decision (See overlap with SO 7.3)

7.2 Register of Interests

7.2.1 The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Board or Committee members. In particular the Register will include details of all directorships and other relevant and material interests (as defined in SO 7.1.2), which have been declared by both Executive and Non-Executive Trust Board members.

7.2.2 These details will be kept up to date by means of an annual review of the Register in which any changes to interests declared during the preceding twelve months will be incorporated.

7.2.3 The Register will be available to the public and the Chief Executive will take reasonable steps to bring the existence of the Register to the attention of local residents and to publicise arrangements for viewing it.

7.3 Exclusion of Chairman and Members in Proceedings on Account of Pecuniary Interest

7.3.1 Definition of Terms Used in Interpreting 'Pecuniary' Interest

For the sake of clarity, the following definition of terms is to be used in interpreting this Standing Order:

- (i) "**spouse**" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);
- (ii) "**contract**" shall include any proposed contract or other course of dealing.
- (iii) "**Pecuniary interest**" Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if: -
 - a) he/she, or a nominee of his/her, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
 - b) he/she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

- (iv) **Exception to Pecuniary Interests.** A person shall not be regarded as having a pecuniary interest in any contract if: -
- a) neither he/she or any person connected with him/her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or
 - b) any interest that he/she or any person connected with him/her may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or
 - c) those securities of any company in which he/she (or any person connected with him/her) has a beneficial interest do not exceed £5,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2 (ii).

7.3.2 Exclusion in Proceedings of the Trust Board

- (i) Subject to the following provisions of this Standing Order, if the Chairman or a member of the Trust Board has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Board may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability should be removed. Such action shall have the support of at least two-thirds of the Directors (including two Executive and two Non Executive Directors).
- (iii) The Trust Board may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- (iv) Any remuneration, compensation or allowance payable to the Chairman or a member by virtue of paragraph 11 of Schedules 3 & 4 to the National Health Service Act 2006 shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a committee or sub-committee as it applies to the Trust.

7.4 Standards of Business Conduct

7.4.1 Trust Policy and National Guidance

All Trust staff and members of must comply with the Trust's detailed Standards of Business Conduct.

7.4.2 Interest of Directors in Contracts

- i) Any Director who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in SO 7.3) has any pecuniary interest, direct or indirect, shall declare their interest by giving notice in writing of such fact to the Chief Executive or the Trust Board Secretary as soon as practicable.
- ii) A Director should also declare to the Chief Executive any other employment or business or other relationship of his/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- iii) The Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff.
- iv) Directors must behave in accordance with the seven Nolan principles of behaviour in Public Life: which are detailed in Appendix 1 to the Trust's Constitution – Standards of Business Conduct

7.4.3 Canvassing of and Recommendations by Members in Relation to Appointments

- i) Canvassing of members of the Trust or of any Committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- ii) Members of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

7.4.4 Relatives of Directors

- i) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any member or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.
- ii) Every Director and every officer of the Trust shall disclose to the Trust Board any relationship between himself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the Trust Board any such disclosure made.
- iii) On appointment, members (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other member or holder of any office under the Trust.
- iv) Where the relationship to a member of the Trust is disclosed, the Standing Order headed 'Disability of Chairman and members in proceedings on account of pecuniary interest' (SO 7) shall apply.

8. CUSTODY OF SEAL, SEALING OF DOCUMENTS AND SIGNATURE OF DOCUMENTS

8.1 Custody of Seal

The common seal of the Trust shall be kept by the Chief Executive or a nominated manager by him/her in a secure place.

8.2 Sealing of Documents

Where it is necessary that a document shall be sealed, the seal shall be affixed on the order of the Board of Directors in the presence of two senior managers duly authorised by the Chief Executive, and not also from the originating department, and shall be attested by them.

8.3 Register of Sealing

The Chief Executive shall keep a register in which he/she, or another manager of the Trust authorised by him/her, shall enter a record of the sealing of every document.

8.4 Signature of documents

Where any document will be a necessary step in legal proceedings on behalf of the Trust, it shall, unless any enactment otherwise requires or authorises, be signed by the Chief Executive or any Executive Director.

In land transactions, the signing of certain supporting documents will be delegated to Managers and set out clearly in the Scheme of Delegation but will not include the main or principal documents effecting the transfer (e.g. sale/purchase agreement, lease, contracts for construction works and main warranty agreements or any document which is required to be executed as a deed).

9. Resolution of Disputes with the Council of Members

9.1 The Council of Members has three main roles:

- Advisory – It communicates to the Board the wishes of Members and the wider community
- Guardianship – It ensures that the Trust is operating in accordance with its Statement of Purpose and is compliant with its Authorisation. In this regard it acts in a trustee role for the welfare of the organisation
- Strategic - It advises on a longer-term direction to help the Board effectively determine its policies.

9.2 The Board of Directors has overall responsibility for running the affairs of Trust. Its role is to:

- Take advice from the Council of Members
- Set a strategic direction
- Set organisational and operational targets
- Minimise risk
- Assess achievement against the above objectives
- Ensure that action is taken to eliminate or minimise, as appropriate, adverse deviations from objectives
- Ensure that the highest standards of Corporate Governance are applied throughout the organisation

- 9.3** The disputes resolution procedure recognises the different roles of the Council of Members and the Board as described above.
- 9.4** The Chairman, or Deputy Chairman (if the dispute involves the Chairman) shall first endeavour through discussion with Council Members and Directors or, to achieve the earliest possible conclusion, appropriate representatives of them to resolve the matter to the reasonable satisfaction of both parties.
- 9.5** Failing resolution under 9.4 above then the Board or the Council, as appropriate, shall, at its next formal meeting, approve the precise wording of a Disputes Statement setting out clearly and concisely the issue or issues giving rise to the dispute.
- 9.6** The Trust Chairman shall ensure that the Disputes Statement, without amendment or abbreviation in any way, shall be an Agenda Item and Agenda Paper at the next formal meeting of the Board or Council as appropriate. That meeting shall agree the precise wording of a Response to Disputes Statement.
- 9.7** The Chairman or Deputy Chairman (if the dispute involves the Chairman) shall immediately, or as soon as is practical, communicate the outcome to the other party and deliver the Response to Disputes Statement. If the matter remains unresolved or only partially resolved then the procedure outlined in 9.4 above shall be repeated.
- 9.8** If, in the opinion of the Chairman or Deputy Chairman (if the dispute involves the Chairman), and following the further discussions prescribed in 9.7, there is no further prospect of a full resolution or, if at any stage in the whole process, in the opinion of the Chairman or Deputy Chairman, as the case may be, there is no prospect of a resolution (partial or otherwise) then he shall advise the Council and the Board accordingly.
- 9.9** On the satisfactory completion of this disputes process the Board shall implement agreed changes.
- 9.10** On the unsatisfactory completion of this disputes process the view of the Board shall prevail.
- 9.11** Nothing in this procedure shall prevent the Council, if it so desires, from informing Monitor that, in the Council's opinion, the Board has not responded constructively to concerns of the Council that the Trust is not meeting the terms of its Authorisation

10. NOTIFICATION OF MONITOR AND COUNCIL OF MEMBERS

The Board shall notify Monitor and the Council of Members of any major changes in the circumstances of the Trust which have made or could lead to a substantial change to its financial well being, healthcare delivery performance, or reputation and standing or which might otherwise affect the Trust's compliance with the terms of its Authorisation.

11. BOARD PERFORMANCE

The Chairman, with the assistance of the Trust Secretary, shall lead, at least annually, a performance assessment process for the Board. This process should act as the basis for determining individual and collective professional development programs for Directors.

ANNEX 9

FURTHER PROVISIONS - ELIGIBILITY TO BE A MEMBER

1. Eligibility to be a Member

A person may not become a Member of the Trust, and if already a Member will immediately cease to do so, if:

- 1.1 He is under sixteen years of age;
- 1.2 He is or has been subject to a sex offender order; or has been convicted of any offence against children;
- 1.3 He resigns on notice to the Trust Board Secretary,
- 1.4 He ceases to be entitled under this Constitution to be a Member of any of the constituencies,
- 1.5 He is expelled under this Constitution,
- 1.6 It appears to the Trust Board Secretary that he no longer wishes to be a Member and after enquiries made, in accordance with a process approved by the Council of Members, he fails to confirm that he wishes to continue to be a Member of the Trust.
- 1.7 He is identified as a vexatious complainant as described in the Trust's Policy and Procedure for the Management of Complaint

2. Expulsion of a Member

A Member (including nominated Members) may be expelled by a resolution of the Council of Members. The following procedure is to be adopted.

- 2.1 Any Member may complain to the Trust Board Secretary that another Member has acted in a way detrimental to the interests of the Trust.
- 2.2 If a complaint is made, the Council of Members may itself consider the complaint having taken such steps as it considers appropriate to ensure that each Member's point of view is heard and may either:
 - (a) dismiss the complaint and take no further action; or
 - (b) arrange for a resolution to expel the Member complained of to be considered at the next meeting of the Council of Members
- 2.3 If a resolution to expel a Member is to be considered at a meeting of the Council of Members, details of the complaint must be sent to the Member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the meeting.
- 2.4 At the Meeting, the Council of Members will consider oral and written evidence produced in support of the complaint and any oral and written evidence submitted for or on behalf of the Member about whom complaint has been made.
- 2.5 If the Member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.

ANNEX 9

FURTHER PROVISIONS - ELIGIBILITY TO BE A MEMBER

- 2.6** A person expelled from Membership will cease to be a Member upon the declaration by the Chairman of the meeting that the resolution to expel them is carried.
- 2.7** No person who has been expelled from Membership is to be re-admitted except by a resolution carried by the votes of two-thirds of the Members of the Council of Members present and voting at a meeting of the Council.

APPENDIX 1 - STANDARDS OF BUSINESS CONDUCT

Both the Council of Members and the Board of Directors will operate a Code of Conduct. This will ensure high standards of probity and responsibility and will make it clear how potential conflicts of interests are dealt with. Kettering General Hospital NHS Foundation Trust has adopted the Nolan Principles of Public Life set out at 11 of this Appendix.

1. Policy

- 1.1 Staff must comply with the policy Standards of Business. The following provisions should be read in conjunction with this document.

2. Interest of Officers in Contracts

- 2.1 If it comes to the knowledge of a Director, Council Member or an officer of the Trust that a contract in which he has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Trust he/she shall, at one, give notice in writing to the Chief Executive of the fact that he/she is interested therein. In the case of married persons [or persons] living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.
- 2.2. An officer must also declare to the Chief Executive any other employment or business or other relationship of his, (or of a cohabiting spouse), that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The Trust requires interests, employment or relationships so declared by staff to be entered in a Register of Interests.

3 Canvassing of, and Recommendations by, Directors or Council Members in Relation to Appointments

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

4 Relatives of Directors, Council Members or Officers

- 4.1 Candidates for any staff appointment shall when making application disclose in writing whether they are related to any Director, Council Member or the holder of any officer under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/ her liable to instant dismissal.
- 4.2 The Directors, Council Members and every officer of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Director, Council member or officer is aware. It shall be the duty of the Chief Executive to report to the Trust any such disclosure made.

- 4.3. On appointment, Council Members and Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other Council Member. Director or holder of any office under the Trust.
- 4.4. Where the relationship of an officer, Council Member or another Director to a Director of the Trust is disclosed, the Standing Order headed 'Disability of Directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

5 The Board of Directors and Council of Members will:

- a) abide by the Seven Principles of Public Life (Nolan), which are:

Selflessness – Holders of public office should take decisions solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – Holders of public office should promote and support these principles by leadership and example.

- b) Actively support the vision and aims of Kettering General Hospital in developing as a successful NHSFT;
- c) Act in the best interests of the Trust at all times;
- d) Contribute to the work of the Council of Members and the Board of Directors in order for it to fulfil its role as defined in the Trust's Constitution;
- e) Recognise that the Council of Members exercises collective decision-making on behalf of all patients, Members, local public and staff;
- f) Not expect any privileges from being a Council Member, Director or Officer of the Trust;
- g) Recognise that the Council of Members has no managerial role within Kettering General Hospital NHS Foundation Trust;
- h) Value and respect Council Member and Director colleagues and all members of staff;
- i) Respect the confidentiality of information received in individual roles;

- j) For Council Members to attend meetings of the Council of Members and development days, on a regular basis, in order to carry out their role;
 - k) Directors, Council Members and Officers of the Trust are to conduct themselves in a manner that reflects positively on Kettering General Hospital NHS Foundation Trust, acting as an ambassador for the Trust;
 - l) Directors and Council Members will comply with the Constitution;
 - m) Directors and Council Members will respect the confidentiality of individual patients;
 - n) Directors, Council Members and Officers of the Trust will not knowingly make or permit, any untrue or misleading statement relating to their own duties or the functions of Kettering General Hospital NHS Foundation Trust;
 - o) Directors, Council Members and Officers of the Trust shall discuss all communication with the media with the Communications Manager or Trust Board Secretary prior to contact;
 - p) Directors, Council Members and Officers of the Trust will support and assist the Accounting Officer of Kettering General Hospital NHS Foundation Trust in his/her responsibility to answer to the regulator, commissioners and the public for the performance of the Trust.
- 6.** In addition, Council Members, in undertaking the role of Council Members of this NHS Foundation Trust shall sign a declaration stating:-
- 6.1** If they are a member of any trade union, political party or other organisation, and if so, that they recognise that they must declare this fact and that they will not be representing those organisations (or the views of those organisations) but will be representing the constituency (public and staff) that elected them;
 - 6.2** That they seek to ensure that fellow Council Members are valued as colleagues and that their views are both respected and considered;
 - 6.3** They accept responsibility for their own actions;
 - 6.4** They show commitment to working as a team member by working with all colleagues in the NHS and wider community;
 - 6.5** They seek to ensure that the Membership of the constituency or partner organisation they represent is properly informed and given the opportunity to influence services;
 - 6.6** They seek to ensure that no one is discriminated against because of their religion, belief, race, colour, gender, marital status, disability, sexual orientation, age, social and economic status or national origin;
 - 6.7** They will agree to have a Criminal Records Bureau check.