

**Constitution of
Kingston Hospital NHS Foundation Trust**

NHS Foundation Trust Model Core Constitution

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1. Interpretation and definitions

Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.

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

the **2006 Act** is the National Health Service Act 2006.

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

Annual Members' Meeting has the meaning given in paragraph 10 of the constitution.

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.

constitution means this constitution and all annexes to it.

Monitor is the body corporate known as Monitor, as provided by Section 61 of the 2012 Act now operating under the title of NHS Improvement.

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

The **Senior Independent Director** means a senior independent director, as appointed in accordance with paragraph 27 of the Constitution with reference to paragraph A.3.3 of Monitor's publication "The Foundation Trust Code of Governance" March 2010 (as amended and/or reissued or revised from time to time).

Secretary means the Secretary of the Trust or any other person appointed to perform the duties of the trust's secretary from time to time.

"Deputy Lead Governor" means the Governor elected by the Council of Governors in accordance with paragraph 4.1 of Annex 5D;

"Lead Governor" means the Governor nominated by the corporation to fulfil the role described in Appendix B to The Foundation Trust Code of Governance (Monitor, updated July 2014) or any later version of such code;

2. Name

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

3. Principal purpose

- 3.1. The principal purpose of the trust is the provision of goods and services for the purposes of the health service in England.
- 3.2. The trust does not fulfill its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
- 3.3. The trust may provide goods and services for any purposes related to—
 - 3.3.1. the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - 3.3.2. the promotion and protection of public health.
- 3.4. The trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4. Powers

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

5. Membership and constituencies

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

- 5.1. a public constituency
- 5.2. a staff constituency

6. Application for membership

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

7. Public Constituency

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

8. Staff Constituency

- 8.1. An individual who is employed by the trust under a contract of employment with the trust may become or continue as a member of the trust provided:
 - 8.1.1. he is employed by the trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
 - 8.1.2. he has been continuously employed by the trust under a contract of employment for at least 12 months.
- 8.2. Individuals who exercise functions for the purposes of the trust, otherwise than under a contract of employment with the trust, may become or continue as members of the staff constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.
- 8.3. Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.4. The Staff Constituency shall be divided into 4 descriptions of individuals who are eligible for membership of the Staff Constituency, each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.
- 8.5. The minimum number of members in each class of the Staff Constituency is specified in Annex 2.

Automatic membership by default – staff

- 8.6. An individual who is:
 - 8.6.1. eligible to become a member of the Staff Constituency, and

8.6.2. invited by the trust to become a member of the Staff Constituency and a member of the appropriate class within the Staff Constituency,

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

9. 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. An individual must be at least 14 years old to become a member of the trust.
- 9.4. Further provisions as to the circumstances in which an individual may not become or continue as a member of the trust are set out in Annex 7 – Further Provisions.

10. Annual Members' Meeting

- 10.1. The Trust shall hold an annual meeting of its members ('Annual Members' Meeting'). The Annual Members' Meeting shall be open to members of the public.
- 10.2. Further provisions about the Annual Members' Meeting are set out in Annex 8 Annual Members' Meeting

11. Council of Governors – composition

- 11.1. The trust is to have a Council of Governors, which shall comprise both elected and appointed governors.
- 11.2. The composition of the Council of Governors is specified in Annex 3.
- 11.3. The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 3.

12. Council of Governors – election of governors

- 12.1. Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules.
- 12.2. The Model Election Rules are updated from time to time. The current Model Election Rules are attached at Annex 4
- 12.3. A subsequent variation of the Model Election Rules shall not constitute a variation of the terms of this constitution for the purposes of paragraph 45 of the constitution (amendment of the constitution).
- 12.4. An election, if contested, shall be by secret ballot.

13. Council of Governors – tenure

- 13.1. An elected governor may hold office for a period of up to 3 years.
- 13.2. An elected governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.
- 13.3. An elected governor shall be eligible for re-election at the end of his term for a maximum of 3 terms (whether elected consecutively or otherwise).
- 13.4. An appointed governor may hold office for a period of up to 3 years.
- 13.5. An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him.
- 13.6. An appointed governor shall be eligible for a re-appointment at the end of term (for a maximum of 3 terms).

14. Council of Governors – disqualification and removal

- 14.1. The following may not become or continue as a member of the Council of Governors:
 - 14.1.1. a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 14.1.2. a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;
 - 14.1.3. a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not)

for a period of not less than three months (without the option of a fine) was imposed on him.

- 14.2. Governors must be at least 16 years of age at the date they are nominated for election or appointment.
- 14.3. Further provisions as to the circumstances in which an individual may not become or continue as a member of the Board of Governors are set out in Annex 5A.
- 14.4. Provisions for the removal of a governor from the Council of Governors are set out in Annex 5A.

15. Council of Governors – meetings of governors

- 15.1. The Chair of the trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 25.1 or paragraph 26.1 below) or, in his absence, the Deputy Chair (appointed in accordance with the provisions of paragraph 27.1 below), shall preside at meetings of the Council of Governors.
- 15.2. Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons which are defined in the Standing Orders of the Council of Governors, Annex 6
- 15.3. For the purposes of obtaining information about the trust's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the trust's or directors' performance), the Council of Governors may require one or more of the directors to attend a meeting.

16. Council of Governors – duties of governors

- 16.1. The general duties of the Council of Governors are –
 - 16.1.1. to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors, and
 - 16.1.2. to represent the interests of the members of the trust as a whole and the interests of the public.
- 16.2. The trust must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.

17. Council of Governors – standing orders

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

18. Council of Governors – referral to the Panel

18.1. In this paragraph, the Panel means a panel of persons appointed by Monitor to which a governor of an NHS foundation trust may refer a question as to whether the trust has failed or is failing –

18.1.1. to act in accordance with its constitution, or

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

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

19. Council of Governors – conflicts of interest of governors

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

20. Council of Governors – travel expenses

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

21. Council of Governors – further provisions

Further provisions with respect to the Council of Governors are set out in Annex 5. The dispute resolution process is outlined in Annex 7B.

22. Board of Directors – composition

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

22.2. The Board of Directors is to comprise:

22.2.1. a non-executive Chairman

22.2.2. not less than 5 and no greater than 8 other non-executive directors; and

- 22.2.3. a Chief Executive and not less than 4 and no more than 7 executive directors
- 22.2.4. at least half of the Board of Directors, excluding the Chairman, will comprise non-executive directors determined to be independent
- 22.3. One of the executive directors shall be the Chief Executive.
- 22.4. The Chief Executive shall be the Accounting Officer.
- 22.5. One of the executive directors shall be the finance director.
- 22.6. One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- 22.7. One of the executive directors is to be a registered nurse or a registered midwife
- 22.8. The Board may determine that other Trust officers may attend meetings of the Board of Directors as and when required to provide operational advice and support to the Board to assist the Board in the discharge of their responsibilities. For the avoidance of doubt, such an officer attending will not be a Director for the purpose of the 2006 Act, nor will they be able to vote and will bear no responsibility or liability for any action of decision of the Board of Directors.

23. Board of Directors – general duty

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

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

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

- 24.1. he is a member of the Public Constituency, or
- 24.2. he is not disqualified by virtue of paragraph 30 below.
- 24.3. The Board will identify in its annual report each Non-Executive Director it considers to be independent (as defined in Monitor’s Code of Governance referred to in Annex 7C) (“independence Criteria”). At least half the Board, excluding the Chairman, will comprise Non-Executive Directors determined by the Board to be independent.

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

- 25.1. A nominations committee shall be established to make recommendations to the Council of Governors in respect of appointments made under this provision. The Council of Governors shall, at a general meeting of the Council of Governors, appoint or remove the chairman of the trust and the other non-executive directors. See Governance Handbook for more detail.
- 25.2. Removal of the chairman or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

26. Board of Directors – appointment of deputy chairman and Senior Independent Director

- 26.1. The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a deputy chairman.
- 26.2. The Board of Directors should appoint one of the independent NEDs to be the senior independent director in consultation with the Council of Governors.

27. Board of Directors – appointment and removal of the Chief Executive and other executive directors

- 27.1. The non-executive directors shall appoint or remove the Chief Executive.
- 27.2. The appointment of the Chief Executive shall require the approval of the Council of Governors.
- 27.3. A committee consisting of the Chairman, the Chief Executive and the other non-executive directors shall appoint or remove the other executive directors.

28. Board of Directors – disqualification

A person may not become or continue as a member of the Board of Directors if they do not comply with the requirements of the Company Directors' Disqualification Act.

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

- 28.1. a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
- 28.2. 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.
- 28.3. a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- 28.4. A person who is, or is the spouse or partner of, a member of a clinical commissioning group (for the purposes of the Health and Social Care Act 2012 established to commission NHS funded services) that commissions services from the Trust.

29. Board of Directors – meetings

- 29.1. Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.
- 29.2. Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

30. Board of Directors – standing orders

The standing orders for the practice and procedure of the Board of Directors are included in the Trust's Standing Orders

31. Board of Directors – conflicts of interest of directors

- 31.1. The duties that a director of the trust has by virtue of being a director include in particular –
 - 31.1.1. a duty to avoid a situation in which the director has (or can have) a direct or indirect, interest that conflicts (or possibly may conflict) with the interests of the trust;
 - 31.1.2. a duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.
- 31.2. The duty referred to in sub paragraph 33.1.1 is not infringed if –
 - 31.2.1. the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

- 31.2.2. the matter has been authorised in accordance with the constitution
- 31.3. The duty referred to in sub-paragraph 33.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- 31.4. In sub-paragraph 33.1.2 “third party” means a person other than –
 - 31.4.1. the trust, or
 - 31.4.2. a person acting on its behalf
- 31.5. If a director of the trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the trust, the director must declare the nature and extent of that interest to the other directors.
- 31.6. If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made
- 31.7. Any declaration required by this paragraph must be made before the trust enters into the transaction or arrangement
- 31.8. This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.
- 31.9. A director need not declare an interest –
 - 31.9.1. if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - 31.9.2. if, or to the extent that, the directors are already aware of it;
 - 31.9.3. if, or to the extent that, it concerns terms of the director’s appointment that have been or are to be considered
 - 31.9.3.1. by a meeting of the Board of Directors, or
 - 31.9.3.2. by a committee of the directors appointed for the purpose under the constitution
- 33.10 A matter shall be ‘authorised’ for the purposes of paragraph 33.2.2
 - 33.10.1 the Board of Directors by majority disapplies the provision of the constitution which would, otherwise prevent a director from being counted as participating in the decision making process

- 33.10.2 the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest, or
- 33.10.3 the director's conflict of interest arises from a permitted cause (as determined by the 'Board of Directors') from time to time.

32. Board of Directors – remuneration and terms of office

- 32.1. The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and the other non-executive directors.
- 32.2. 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.
- 32.3. Pending the establishment of this remuneration committee the allowances applied by the applicant NHS Trust will apply.

33. Registers

The trust shall have:

- 33.1. 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;
- 33.2. a register of members of the Council of Governors;
- 33.3. a register of interests of governors;
- 33.4. a register of directors; and
- 33.5. a register of interests of the directors.

34. Admission to and removal from the registers

- 34.1. Any person entitled to be a Member who, as appropriate, applies or is invited to become a Member, shall have their name added to the register of Members. Such person's membership of the Trust shall commence from the date of their name being added to the register of Members.
- 34.2. The Secretary shall remove from the register of members the name of any member who ceases to be entitled to be a member and if:

- 34.2.1. the Member is no longer eligible under the provisions of this constitution or is disqualified
- 34.2.2. the Member is deceased.
- 34.3. The register of Governors shall list the names of Governors, their category of membership of the Council of Governors and an address through which they may be contacted (which may be the Secretary).
- 34.4. The register of interests of Governors shall contain the names of each Governor, whether he has declared any interests and, if so, the interests declared in accordance with this constitution or the standing orders for Governors.
- 34.5. The register of Directors shall list the names of Directors, their capacity on the Board of Directors and an address through which they may be contacted (which may be the Secretary).
- 34.6. The register of interests of Directors shall contain the names of each Director, whether he has declared any interests and, if so, the interests declared in accordance with this constitution on the standing orders for Directors.

35. Registers – inspection and copies

- 35.1. The trust shall make the registers specified in paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.
- 35.2. 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 in writing.
- 35.3. So far as the registers are required to be made available:
 - 35.3.1. they are to be available for inspection free of charge at all reasonable times; and
 - 35.3.2. a person who requests a copy of or extract from the registers is to be provided with a copy or extract.
- 35.4. 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.

36. Documents available for public inspection

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

- 36.1.1. a copy of the current constitution;
 - 36.1.2. a copy of the latest annual accounts and of any report of the auditor on them;
 - 36.1.3. a copy of the latest annual report;
- 36.2. The trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:
- 36.2.1. a copy of any order made under section 65D (appointment of trust special administrator, 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act;
 - 36.2.2. a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
 - 36.2.3. a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act;
 - 36.2.4. a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 36.2.5. a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
 - 36.2.6. a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor's decision), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
 - 36.2.7. a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
 - 36.2.8. a copy of any final report published under section 65I (administrator's final report) of the 2006 Act;
 - 36.2.9. a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and

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

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

36.4 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.

37. Auditor

37.1. The trust shall have an auditor.

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

38. Audit Committee

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

39. Accounts

39.1. The trust shall keep proper accounts and proper records in relation to the accounts.

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

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

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

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

40. Annual report and forward plans and non-NHS Work

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

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

- 40.3. The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.
- 40.4. In preparing the document, the directors shall have regard to the views of the Council of Governors.
- 40.5. Each forward plan must include information about –
 - 40.5.1. the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and
 - 40.5.2. the income it expects to receive from doing so.
- 40.6. Where a forward plan contains a proposal that the trust carry on an activity of a kind mentioned in sub-paragraph 42.5.1, the Council of Governors must –
 - 40.6.1. determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions, and
 - 40.6.2. notify the directors of the trust of its determination.
- 40.7. Where the trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England it may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

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

- 41.1. The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:
 - 41.1.1. the annual accounts
 - 41.1.2. any report of the auditor on them
 - 41.1.3. the annual report.
- 41.2. The documents shall also be presented to the members of the trust at the Annual Members' Meeting by at least one member of the Board of Directors in attendance
- 41.3. The trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 43.1 with the Annual Members' Meeting.

42. Instruments

- 42.1. The trust shall have a seal.
- 42.2. The seal shall not be affixed except under the authority of the Board of Directors.

43. Amendment of the Constitution

- 43.1. The Trust may make amendments of its constitution only if –
 - 43.1.1. more than half of the members of the Council of Governors of the trust voting approve the amendments and
 - 43.1.2. more than half of the members of the Board of Directors of the trust voting approve the amendments.
- 43.2. Amendments made under paragraph 45.1 take effect as soon as the conditions in that paragraph are satisfied but the amendment has no effect in so far as the constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.
- 43.3. Where an amendment is made to the constitution in relation the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the trust) –
 - 43.3.1. at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and
 - 43.3.2. the trust must give the members an opportunity to vote on whether they approve the amendment
- 43.4. if more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the trust must take such steps as are necessary as a result.
- 43.5. Amendments by the trust of its constitution are to be notified to Monitor. For the avoidance of doubt, Monitor's functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7 of the 2006. Act.

44. Indemnity

- 44.1. Members of the Board of Directors and Council of Governors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in

the execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

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

45. Procedures and Protocols

The Board of Directors shall adopt such procedures and protocols as it shall deem to be appropriate for the good governance of the trust from time to time.

46. Mergers etc. and Significant Transactions

48.1 The trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.

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

48.3 "Significant transaction" means a transaction which meets any one of the below criteria:

48.3.1 the total of the fixed assets and current assets subject to the transaction represents more than 25% of the value of the total fixed assets and current assets of the trust;

48.3.2 the increase or decrease in income attributable to:

48.3.2.1 the assets; or

48.3.2.2 the contract

associated with the transaction represents more than 25% of the value of the trust's income; or

48.3.2.3 the gross capital of the company or business being acquired/divested represents more than 25% of the total capital of the trust following completion (where gross capital is the market value of the relevant company or business's shares and debt securities, plus the excess of current liabilities over current assets).

48.4 "Significant Transaction" excludes any agreement or changes to healthcare services carried out by the trust following a reconfiguration of services led by the commissioners of such services.

ANNEX 1 THE PUBLIC CONSTITUENCY

(Paragraphs 7.1 and 7.3)

Eligibility to become a member of the Public Constitution is open to people living within the defined catchment area of the Trust. This will include residents from the following Local Authority electoral areas (as defined for the purpose of Local authority elections). The Public Constituency may also include volunteers providing support to the Trust who will be a member of the constituency in which they ordinarily reside. An individual is only eligible for membership of the public constituency if he/she lives in an area specified in the constitution for a public constituency.

Members must be aged 14 or over.

Areas of the public constituency`	Electoral wards included from Borough	Minimum Number of Members	No. of Governors to be elected from that area
Royal Borough of Kingston upon Thames (Whole Borough)	Alexandra, Berrylands, Beverley, Canbury, Chessington North and Hook, Chessington South, Coombe Hill, Coombe Vale, Grove, Norbiton, St. James, St. Mark's, Surbiton Hill, Tolworth & Hook Rise, Tudor, Old Malden	832	7
London Borough of Richmond upon Thames (Whole Borough)	Barnes; East Sheen; Fulwell & Hampton Hill; Ham, Petersham & Richmond Riverside, Hampton, Hampton North; Hampton Wick; Heathfield; Kew; Mortlake and Barnes common; North Richmond; South Richmond; South Twickenham; St. Margaret's and North Twickenham; Teddington, Twickenham Riverside; West Twickenham; Whitton	417	4
Elmbridge Borough Council (Whole Borough)	Claygate, Cobham and Downside, Cobham Fairmile, Esher, Hersham North, Hersham South, Hinchley Wood, Long Ditton, Molesey East, Molesey North, Molesey South, Oatlands Park, Oxshott and Stoke D'Abernon, St. George's Hill,	281	2

Areas of the public constituency`	Electoral wards included from Borough	Minimum Number of Members	No. of Governors to be elected from that area
	Thames Ditton, Walton Ambleside, Walton Central, Walton North, Walton South, Weston Green, Weybridge North, Weybridge South		
London Borough of Wandsworth	West Putney, Roehampton, East Putney, West Hill, Southfields, Fairfield, Wandsworth Common, Thamesfield, Earlsfield	93	1
London Borough of Merton	Raynes Park, Wimbledon Park, Merton Park, Hillside, Dundonald, Wimbledon Village, Cannon Hill, Abbey, West Barnes, Lower Morden, Trinity	126	1
London Borough of Sutton	Cheam, Cheam and Worcester Park, Stonecot, Nonsuch	39	1
Rest of Surrey and Greater London	The electoral areas of: Epsom and Ewell Borough Council; Guildford Borough Council; Mole Valley District Council; Reigate and Banstead Borough Council; Runnymede Borough Council; Spelthorne Borough Council; Surrey Heath Borough Council; Tandridge District Council; Waverley Borough Council; Woking Borough Council. City of London; London Borough of Barking and Dagenham; London Borough of Barnet; London Borough of Bexley; London Borough of Brent; London Borough of Bromley; London Borough of Camden; London Borough of Croydon; London Borough of Ealing; London Borough of Enfield; Royal Borough of Greenwich; ¹ London Borough of Hackney; London Borough of Hammersmith & Fulham; London	99	1

Areas of the public constituency`	Electoral wards included from Borough	Minimum Number of Members	No. of Governors to be elected from that area
	<p>Borough of Haringey; London Borough of Harrow; London Borough of Havering; London Borough of Hillingdon; London Borough of Hounslow; London Borough of Islington; Royal Borough of Kensington & Chelsea; London Borough of Lambeth; London Borough of Lewisham; London Borough of Merton (selected wards only – Colliers Wood, Graveney, Lavender Fields, Figges Marsh, Longthornton, Pollards Hill, Cricket Green, Ravensbury and St Helier ;² London Borough of Newham; London Borough of Redbridge; London Borough of Southwark; London Borough of Sutton (selected wards only – Beddington North, Beddington South, Belmont, Carshalton Central, Carshalton South and Clockhouse, St. Helier, Sutton Central, Sutton North, Sutton South, Sutton West, The Wrythe, Wallington North, Wallington South, Wandle Valley ;³ London Borough of Tower Hamlets; London Borough of Waltham Forest; London Borough of Wandsworth (selected wards only – Balham, Bedford, Furzedown, Graveney, Latchmere, Nightingale, Northcote, Queenstown, St. Mary's Park, Shaftesbury, Tooting;⁴ City of Westminster.</p>		

² This does not include wards which are listed above as part of the sub-constituency, the “London Borough of Merton”.

³. This does not include any wards which are listed above as part of the sub-constituency, the “London Borough of Sutton”.

⁴ This does not include any wards which are listed above as part of the sub-constituency, the “London Borough of Wandsworth”.

Areas of the public constituency`	Electoral wards included from Borough	Minimum Number of Members	No. of Governors to be elected from that area
		1,887	17

ANNEX 2 THE STAFF CONSTITUENCY

(Paragraphs 8.4 and 8.5)

Eligibility to become a member of the Staff Constituency is defined in paragraph 8 of the Constitution. The table below details the minimum number of staff within each class.

The staff constituency will include all staff employed by the Trust who have a contract of employment which does not have a fixed term or if does have a fixed term is at least 12 months duration, or they have been employed continuously for 12 months subject to any member of staff deciding to opt out. The constituency will also include independent contractors working at Kingston Hospital. Only individuals who fulfill these criteria will be eligible to be staff members, see paragraph 8.2. Staff membership will be on an opt-out basis.

Staff Class	Minimum Number of Members	Number of Staff Governors
Medical and Dental Practitioners	150	1
Nursing and Midwifery	500	1
Allied Health Professionals and Clinical Support Staff	218	1
Management, Administrative and Support Staff (including eligible Contractors)	361	1

Medical and Dental Practitioners:

The members of the Medical and Dental Practitioners staff class shall include individuals who are eligible as members of the Staff Constituency and who are:
(a) registered dentists within the meaning of the Dentists Act 1984; or
(b) persons who are included in the register of medical practitioners maintained in accordance with Section 2 of the Medical Act 1983 and who hold a licence to practice if and when this is required by legislation to enable such a person to practice.

For the avoidance of doubt, the Medical and Dental Practitioners' staff class shall include junior doctors who have been registered provisionally in the register of medical practitioners.

Nursing and Midwifery:

The members of the Nursing and Midwifery staff class shall include individuals who are eligible as members of the Staff Constituency who do not fall within the Medical and Dental Practitioners staff class but whose regulatory body is the Nursing and Midwifery Council. For the avoidance of doubt, the Nursing and Midwifery staff class shall also include nursing auxiliaries and health care assistants.

Allied Health Professionals and Clinical Support Staff:

The members of the Allied Health Professionals and Clinical Support Staff class shall include individuals who are eligible as members of the Staff Constituency who do not fall within the Medical and Dental Practitioners staff class or the Nursing and Midwifery staff class but whose regulatory body is within the remit of the Council for Healthcare Regulatory Excellence or who are otherwise designated by the trust from time to time as eligible to be members of this class.

Management, Administrative and Support Staff (including eligible contractors):

The members of the Management, Administrative and Support Staff class shall include individuals who are eligible as members of the Staff Constituency but do not fall within any of the other staff classes mentioned above. The Management, Administrative and Support Staff class shall include individuals who are not employed by the Trust but carry out the functions of the Trust through an independent contractor.

ANNEX 3 COMPOSITION OF COUNCIL OF GOVERNORS

(Paragraphs 11.2 and 11.3)

The composition of the Council of Governors is as set out below, provided always that the number of Public Governors shall be more than half the total membership of the Council of Governors.

<p>Public = 17 (Elected)</p> <p>Kingston - 7 Richmond - 4 Elmbridge-2 Wandsworth (part)-1 Merton - 1 Sutton -1 Rest of Surrey and Greater London - 1</p>	<p>Staff = 4 (Elected)</p> <p>Medical and Dental Practitioners Nursing and Midwifery Allied Health Professionals and Clinical Support Staff Management, Administrative and Support Staff (including Contractors)</p> <hr/> <p>Appointed = 12</p> <p>Kingston CCG - 1 Richmond CCG - 1 Surrey CCG- 1 Wandsworth CCG- 1 Sutton CCG and Merton CCG a governor appointed jointly - 1]all are expected to be CCGs from 1ST April 2013 prior to this seats will be held by the PCTs as similarly listed.</p> <p>Royal Borough of Kingston upon Thames - 2 London Borough of Richmond upon Thames - 1 Elmbridge Borough Council - 1 London Borough of Wandsworth - 1 A governor appointed jointly by the London Borough of Sutton and the London Borough of Merton Constituency Classes (identified in Annex 1) - 1 Kingston University (partnership organisation)- 1</p>
<p>Total 17</p>	<p>Total 16</p>

ANNEX 4 - MODEL ELECTION RULES 2014

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1. Interpretation

1.1 In these rules, unless the context otherwise requires:

“*2006 Act*” means the National Health Service Act 2006;

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

“*council of governors*” means the council of governors of the corporation;

“*declaration of identity*” has the meaning set out in rule 21.1;

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

“*e-voting*” means voting using either the internet, telephone or text message;

“*e-voting information*” has the meaning set out in rule 24.2;

“*ID declaration form*” has the meaning set out in Rule 21.1; “*internet voting record*” has the meaning set out in rule 26.4(d);

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

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

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

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

“*Monitor*” means the corporate body known as Monitor as provided by section 61 of the 2012 Act;

“*numerical voting code*” has the meaning set out in rule 64.2(b)

“*polling website*” has the meaning set out in rule 26.1;

“*postal voting information*” has the meaning set out in rule 24.1;

“*telephone short code*” means a short telephone number used for the purposes of submitting a vote by text message;

“*telephone voting facility*” has the meaning set out in rule 26.2;

“*telephone voting record*” has the meaning set out in rule 26.5 (d);

“*text message voting facility*” has the meaning set out in rule 26.3;

“*text voting record*” has the meaning set out in rule 26.6 (d);

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

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

“voter ID number” means a unique, randomly generated numeric identifier allocated to each voter by the Returning Officer for the purpose of e-voting,

“voting information” means postal voting information and/or e-voting information

1.2

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

PART 2: TIMETABLE FOR ELECTIONS

2. Timetable

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

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

3. Computation of time

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

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

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

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

4. Returning Officer

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

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

5. Staff

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

6. Expenditure

6.1 The corporation is to pay the returning officer:

(a) any expenses incurred by that officer in the exercise of his or her functions under these rules,

(b) such remuneration and other expenses as the corporation may determine.

7. Duty of co-operation

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

PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of election

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

9. Nomination of candidates

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

9.2 The returning officer:

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

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

10. Candidate's particulars

10.1 The nomination form must state the candidate's:

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

11. Declaration of interests

11.1 The nomination form must state:

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

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

12. Declaration of eligibility

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

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

13. Signature of candidate

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

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

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

14. Decisions as to the validity of nomination

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

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

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

- (a) that the paper is not received on or before the final time and date for return of nomination forms, as specified in the notice of the election,
 - (b) that the paper does not contain the candidate's particulars, as required by rule 10;
 - (c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,
 - (d) that the paper does not include a declaration of eligibility as required by rule 12, or
 - (e) that the paper is not signed and dated by the candidate, if required by rule 13.
- 14.3 The returning officer is to examine each nomination form as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.
- 14.4 Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination form, stating the reasons for their decision.
- 14.5 The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate's nomination form. If an e-mail address has been given in the candidate's nomination form (in addition to the candidate's postal address), the returning officer may send notice of the decision to that address.
- 15. Publication of statement of candidates**
- 15.1 The returning officer is to prepare and publish a statement showing the candidates who are standing for election.
- 15.2 The statement must show:
- (a) the name, contact address (which shall be the candidate's postal address), and constituency or class within a constituency of each candidate standing, and
 - (b) the declared interests of each candidate standing,
- as given in their nomination form.
- 15.3 The statement must list the candidates standing for election in alphabetical order by surname.
- 15.4 The returning officer must send a copy of the statement of candidates and copies of the nomination forms to the corporation as soon as is practicable after publishing the statement.
- 16. Inspection of statement of nominated candidates and nomination forms**
- 16.1 The corporation is to make the statement of the candidates and the nomination forms supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.
- 16.2 If a member of the corporation requests a copy or extract of the statement of candidates or their nomination forms, the corporation is to provide that member

with the copy or extract free of charge.

17. Withdrawal of candidates

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

18. Method of election

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

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

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

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

19. Poll to be taken by ballot

- 19.1 The votes at the poll must be given by secret ballot.
- 19.2 The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.
- 19.3 The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 19.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.
- 19.4 The corporation may decide that voters within a constituency or class within a constituency for whom an e-mail address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.
- 19.5 Before the corporation decides, in accordance with rule 19.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:
- (a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:
 - (i) configured in accordance with these rules; and
 - (ii) will create an accurate internet voting record in respect of any voter who casts his or her vote using the internet voting system;
 - (b) if telephone voting to be a method of polling, the telephone voting system to be used for the purpose of the election is:
 - (i) configured in accordance with these rules; and
 - (ii) will create an accurate telephone voting record in respect of any voter who casts his or her vote using the telephone voting system;
 - (c) if text message voting is to be a method of polling, the text message voting system to be used for the purpose of the election is:
 - (i) configured in accordance with these rules; and
 - (ii) will create an accurate text voting record in respect of any voter who casts his or her vote using the text message voting system.

20. The ballot paper

- 20.1 The ballot of each voter (other than a voter who casts his or her ballot by an e-voting method of polling) is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.
- 20.2 Every ballot paper must specify:
- (a) the name of the corporation,
 - (b) the constituency, or class within a constituency, for which the election is being held,

- (c) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote by all available methods of polling, including the relevant voter's voter ID number if one or more e-voting methods of polling are available,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

20.3 Each ballot paper must have a unique identifier.

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

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

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

- (a) that the voter is the person:
 - (i) to whom the ballot paper was addressed, and/or
 - (ii) to whom the voter ID number contained within the e-voting information was allocated,
- (b) that he or she has not marked or returned any other voting information in the election, and
- (c) the particulars of his or her qualification to vote as a member of the constituency or class within the constituency for which the election is being held,

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

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

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

Action to be taken before the poll

22. List of eligible voters

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

the final date for the delivery of notices of withdrawals by candidates from an election.

22.2 The list is to include, for each member:

- (a) a postal address; and,
- (b) the member's e-mail address, if this has been provided

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

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

23. Notice of poll

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

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

24. Issue of voting information by returning officer

24.1 Subject to rule 24.3, as soon as is reasonably practicable on or after the

publication of the notice of the poll, the returning officer is to send the following information by post to each member of the corporation named in the list of eligible voters:

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

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

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

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

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

for the purposes of the poll.

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

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

25. Ballot paper envelope and covering envelope

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

25.2 The covering envelope is to have:

- (a) the address for return of the ballot paper printed on it, and

(b) pre-paid postage for return to that address.

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

(a) the completed ID declaration form if required, and

(b) the ballot paper envelope, with the ballot paper sealed inside it.

26. E-voting systems

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

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

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

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

(a) require a voter to:

(i) enter his or her voter ID number; and

(ii) where the election is for a public or patient constituency, make a declaration of identity;

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

(b) specify:

(i) the name of the corporation,

(ii) the constituency, or class within a constituency, for which the election is being held,

(iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,

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

(v) instructions on how to vote and how to make a declaration of identity,

(vi) the date and time of the close of the poll, and

(vii) the contact details of the returning officer;

- (c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of-
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote,
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this; and
- (f) prevent any voter from voting after the close of poll.

26.5

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

- (a) require a voter to
 - (i) enter his or her voter ID number in order to be able to cast his or her vote; and
 - (ii) where the election is for a public or patient constituency, make a declaration of identity;
- (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
 - (iv) instructions on how to vote and how to make a declaration of identity,
 - (v) the date and time of the close of the poll, and
 - (vi) the contact details of the returning officer;
- (c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:
 - (i) the voter's voter ID number;

- (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (f) prevent any voter from voting after the close of poll.

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

- (a) require a voter to:
- (i) provide his or her voter ID number; and
 - (ii) where the election is for a public or patient constituency, make a declaration of identity;
- in order to be able to cast his or her vote;
- (b) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:
- (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (ii) the candidate or candidates for whom the voter has voted; and
 - (iii) the date and time of the voter's vote
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (f) prevent any voter from voting after the close of poll.

The poll

27. Eligibility to vote

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

28. Voting by persons who require assistance

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

28.2 Where the returning officer receives a request from a voter who requires

assistance to vote, the returning officer is to make such arrangements as he or she considers necessary to enable that voter to vote.

29. Spoilt ballot papers and spoilt text message votes

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

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

29.3 The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she:

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

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

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

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

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

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

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

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

30. Lost voting information

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

- 30.2 The returning officer may not issue replacement voting information in respect of lost voting information unless he or she:
- (a) is satisfied as to the voter's identity,
 - (b) has no reason to doubt that the voter did not receive the original voting information,
 - (c) has ensured that no declaration of identity, if required, has been returned.
- 30.3 After issuing replacement voting information in respect of lost voting information, the returning officer shall enter in a list ("the list of lost ballot documents"):
- (a) the name of the voter
 - (b) the details of the unique identifier of the replacement ballot paper, if applicable, and
 - (c) the voter ID number of the voter.

31. Issue of replacement voting information

- 31.1 If a person applies for replacement voting information under rule 29 or 30 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 29.3 or 30.2, he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.
- 31.2 After issuing replacement voting information under this rule, the returning officer shall enter in a list ("the list of tendered voting information"):
- (a) the name of the voter,
 - (b) the unique identifier of any replacement ballot paper issued under this rule;
 - (c) the voter ID number of the voter.

32. ID declaration form for replacement ballot papers (public and patient constituencies)

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

Polling by internet, telephone or text

33. Procedure for remote voting by internet

- 33.1 To cast his or her vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.
- 33.2 When prompted to do so, the voter will need to enter his or her voter ID number.
- 33.3 If the internet voting system authenticates the voter ID number, the system will

give the voter access to the polling website for the election in which the voter is eligible to vote.

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

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

34. Voting procedure for remote voting by telephone

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

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

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

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

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

35. Voting procedure for remote voting by text message

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

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

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

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

36. Receipt of voting documents

36.1 Where the returning officer receives:

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

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

- 36.2 The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 37 and 38, but must make arrangements to ensure that no person obtains or communicates information as to:
- (a) the candidate for whom a voter has voted, or
 - (b) the unique identifier on a ballot paper.
- 36.3 The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.
- 37. Validity of votes**
- 37.1 A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.
- 37.2 Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:
- (a) put the ID declaration form if required in a separate packet, and
 - (b) put the ballot paper aside for counting after the close of the poll.
- 37.3 Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:
- (a) mark the ballot paper “disqualified”,
 - (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
 - (c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.
- 37.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.
- 37.5 Where the returning officer is satisfied that rule 37.4 has been fulfilled, he or she is to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.
- 37.6 Where the returning officer is not satisfied that rule 37.4 has been fulfilled, he or she is to:
- (a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
 - (b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents; and

- (c) place the document or documents in a separate packet.

38. Declaration of identity but no ballot paper (public and patient constituency)⁵

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

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

39. De-duplication of votes

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

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

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

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

- (a) mark the ballot paper “disqualified”,
- (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
- (c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;
- (d) place the document or documents in a separate packet; and
- (e) disregard the ballot paper when counting the votes in accordance with these rules.

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

- (a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
- (b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents;

⁵ It should not be possible, technically, to make a declaration of identity electronically without also submitting a vote.

- (c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet, and
- (d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

40. Sealing of packets

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

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

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

41. Interpretation of Part

41.1 In Part 6 of these rules:

“*ballot document*” means a ballot paper, internet voting record, telephone voting record or text voting record.

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

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

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

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

“*non-transferable vote*” means a ballot document:

(a) on which no second or subsequent preference is recorded for a continuing candidate,

or

(b) which is excluded by the returning officer under rule STV49,

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

(a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference,

(b) “next available preference” means a preference which is the second, or as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored); and

(c) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, and a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on,

“*quota*” means the number calculated in accordance with rule STV46,

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

“*stage of the count*” means:

(a) the determination of the first preference vote of each candidate,

(b) the transfer of a surplus of a candidate deemed to be elected, or

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

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

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

“*transfer value*” means the value of a transferred vote calculated in accordance with rules STV47.4 or STV47.7.

42. Arrangements for counting of the votes

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

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

- (a) the board of directors and the council of governors of the corporation have approved:
 - (i) the use of such software for the purpose of counting votes in the relevant election, and
 - (ii) a policy governing the use of such software, and
- (b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. The count

43.1 The returning officer is to:

- (a) count and record the number of:
 - (iii) ballot papers that have been returned; and
 - (iv) the number of internet voting records, telephone voting records and/or text voting records that have been created, and
- (b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(ii) where vote counting software is being used.

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

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

44. Rejected ballot papers and rejected text voting record

44.1 Any ballot paper:

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

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

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

44.3 Any text voting record:

- (a) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,
- (b) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (c) which is unmarked or rejected because of uncertainty,

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

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

44.5 The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (d) of rule STV44.1 and the number of text voting records rejected by him or her under each of the sub-paragraphs (a) to (c) of rule STV44.3.

45. First stage

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

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

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

46. The quota

- 46.1 The returning officer is to divide the number of valid ballot documents by a number exceeding by one the number of members to be elected.
- 46.2 The result, increased by one, of the division under rule STV46.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).
- 46.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules STV47.1 to STV47.3 has been complied with.

47. Transfer of votes

- 47.1 Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot documents on which first preference votes are given for that candidate into sub- parcels so that they are grouped:
- (a) according to next available preference given on those ballot documents for any continuing candidate, or
 - (b) where no such preference is given, as the sub-parcel of non-transferable votes.
- 47.2 The returning officer is to count the number of ballot documents in each parcel referred to in rule STV47.1.
- 47.3 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.1(a) to the candidate for whom the next available preference is given on those ballot documents.
- 47.4 The vote on each ballot document transferred under rule STV47.3 shall be at a value (“the transfer value”) which:
- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and
 - (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot documents on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).
- 47.5 Where at the end of any stage of the count involving the transfer of ballot documents, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballot documents in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped:
- (a) according to the next available preference given on those ballot documents for any continuing candidate, or
 - (b) where no such preference is given, as the sub-parcel of non-transferable votes.

- 47.6 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.5(a) to the candidate for whom the next available preference is given on those ballot documents.
- 47.7 The vote on each ballot document transferred under rule STV47.6 shall be at:
- (a) a transfer value calculated as set out in rule STV47.4(b), or
 - (b) at the value at which that vote was received by the candidate from whom it is now being transferred,
- whichever is the less.
- 47.8 Each transfer of a surplus constitutes a stage in the count.
- 47.9 Subject to rule STV47.10, the returning officer shall proceed to transfer transferable ballot documents until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.
- 47.10 Transferable ballot documents shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are:
- (a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or
 - (b) less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.
- 47.11 This rule does not apply at an election where there is only one vacancy

48. Supplementary provisions on transfer

- 48.1 If, at any stage of the count, two or more candidates have surpluses, the transferable ballot documents of the candidate with the highest surplus shall be transferred first, and if:
- (a) The surpluses determined in respect of two or more candidates are equal, the transferable ballot documents of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and
 - (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable ballot documents of the candidate on whom the lot falls shall be transferred first.
- 48.2 The returning officer shall, on each transfer of transferable ballot documents under rule STV47:
- (a) record the total value of the votes transferred to each candidate,
 - (b) add that value to the previous total of votes recorded for each candidate and record the new total,

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

48.3 All ballot documents transferred under rule STV47 or STV49 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that ballot document or, as the case may be, all the ballot documents in that sub-parcel.

48.4 Where a ballot document is so marked that it is unclear to the returning officer at any stage of the count under rule STV47 or STV49 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot document as a non-transferable vote; and votes on a ballot document shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

49. Exclusion of candidates

49.1 If:

- (a) all transferable ballot documents which under the provisions of rule STV47 (including that rule as applied by rule STV49.11) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule STV50, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where rule STV49.12 applies, the candidates with the then lowest votes).

9.2 The returning officer shall sort all the ballot documents on which first preference votes are given for the candidate or candidates excluded under rule STV49.1 into two sub-parcels so that they are grouped as:

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

49.3 The returning officer shall, in accordance with this rule and rule STV48, transfer each sub-parcel of ballot documents referred to in rule STV49.2 to the candidate for whom the next available preference is given on those ballot documents.

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

49.5 If, subject to rule STV50, one or more vacancies still remain to be filled, the

returning officer shall then sort the transferable ballot documents, if any, which had been transferred to any candidate excluded under rule STV49.1 into sub- parcels according to their transfer value.

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

49.7 The vote on each transferable ballot document transferred under rule STV49.6 shall be at the value at which that vote was received by the candidate excluded under rule STV49.1.

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

49.9 After the returning officer has completed the transfer of the ballot documents in the sub-parcel of ballot documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under rule STV49.1.

49.10 The returning officer shall after each stage of the count completed under this rule:

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

49.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules STV47.5 to STV47.10 and rule STV48.

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

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

- (a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that

stage shall be excluded, and

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

50. Filling of last vacancies

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

51. Order of election of candidates

- 51.1 The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule STV47.10.
- 51.2 A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.
- 51.3 Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.
- 51.4 Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

PART 7: FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

52. Declaration of result for contested elections

52.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

- (a) declare the candidates who are deemed to be elected under Part 6 of these rules as elected,
- (b) give notice of the name of each candidate who he or she has declared elected –
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

52.2 The returning officer is to make:

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule STV44.1,
- (f) the number of rejected text voting records under each of the headings in rule STV44.3,

available on request.

53. Declaration of result for uncontested elections

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

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

54. Sealing up of documents relating to the poll

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

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

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

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

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

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

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

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

55. Delivery of documents

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

56. Forwarding of documents received after close of the poll

56.1 Where:

- (a) any voting documents are received by the returning officer after the close of the poll, or

- (b) any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or
- (c) any applications for replacement voting information are made too late to enable new voting information to be issued,

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

57. Retention and public inspection of documents

- 57.1 The corporation is to retain the documents relating to an election that are forwarded to the chair by the returning officer under these rules for one year, and then, unless otherwise directed by the board of directors of the corporation, cause them to be destroyed.
- 57.2 With the exception of the documents listed in rule 58.1, the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.
- 57.3 A person may request a copy or extract from the documents relating to an election that are held by the corporation, and the corporation is to provide it, and may impose a reasonable charge for doing so.

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

- 58.1 The corporation may not allow:
 - (a) the inspection of, or the opening of any sealed packet containing –
 - (i) any rejected ballot papers, including ballot papers rejected in part,
 - (ii) any rejected text voting records, including text voting records rejected in part,
 - (iii) any disqualified documents, or the list of disqualified documents,
 - (iv) any counted ballot papers, internet voting records, telephone voting records or text voting records, or
 - (v) the list of eligible voters, or
 - (b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage,by any person without the consent of the board of directors of the corporation.
- 58.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 58.1, and the board of directors of the corporation may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.
- 58.3 The board of directors of the corporation's consent may be on any terms or conditions that it thinks necessary, including conditions as to –
 - (a) persons,

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

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

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

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

ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

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

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

59. Countermand or abandonment of poll on death of candidate

- 59.1 If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:
- (a) publish a notice stating that the candidate has died, and
 - (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot documents which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot documents which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.
- 59.2 The ballot documents which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot documents pursuant to rule 54.1(a).

PART 10: ELECTION EXPENSES AND PUBLICITY

Election expenses

60. Election expenses

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

61. Expenses and payments by candidates

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

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

62. Election expenses incurred by other persons

62.1 No person may:

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

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

Publicity

63. Publicity about election by the corporation

63.1 The corporation may:

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

as it considers necessary.

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

- (a) objective, balanced and fair,

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

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

64. Information about candidates for inclusion with voting information

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

64.2 The information must consist of:

- (a) a statement submitted by the candidate of no more than 250 words,
- (b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility (“numerical voting code”), and
- (c) a photograph of the candidate.

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

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

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

PART 11: QUESTIONING ELECTIONS AND THE CONSEQUENCE OF IRREGULARITIES

66. Application to question an election

- 66.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to Monitor for the purpose of seeking a referral to the independent election arbitration panel (IEAP).
- 66.2 An application may only be made once the outcome of the election has been declared by the returning officer.
- 66.3 An application may only be made to Monitor by:
- (a) a person who voted at the election or who claimed to have had the right to vote, or
 - (b) a candidate, or a person claiming to have had a right to be elected at the election.
- 66.4 The application must:
- (a) describe the alleged breach of the rules or electoral irregularity, and
 - (b) be in such a form as the independent panel may require.
- 66.5 The application must be presented in writing within 21 days of the declaration of the result of the election. Monitor will refer the application to the independent election arbitration panel appointed by Monitor.
- 66.6 If the independent election arbitration panel requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- 66.7 Monitor shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.
- 66.8 The determination by the IEAP 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.
- 66.9 The IEAP may prescribe rules of procedure for the determination of an application including costs.

67. Secrecy

67.1 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 voting information or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the voter ID number allocated to any voter,
- (iv) the candidate(s) for whom any member has voted.

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

67.3 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.

68. Prohibition of disclosure of vote

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

69. Disqualification

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

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

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

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

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

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

ANNEX 5 ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

(Paragraphs 14.3 and 14.4)

Annex 5A; Disqualification and Grounds for removal

1. An individual may not become or continue as a member of the Council of Governors if:
 - (a) he is a person whose tenure of office as the Chairman or as a member or director of an organisation engaged in the provision of health services for the purpose of health services in England, including an NHS foundation Trust, 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 breach of the relevant organisation's constitution (including for non-disclosure of an interest which was required to be disclosed);
 - (b) he is an elected or appointed governor of the Trust and is also an Executive or Non-Executive of the Trust, or a governor, non-executive director (including the chairman) or executive director (including the chief executive officer) of another NHS Foundation Trust or such other organisation as the Council of Governors may decide (after consultation with the Board of Directors);
 - (c) he is required to notify the police of his name and address as a result of being convicted or cautioned for relevant sex offences pursuant to the Sex Offenders' Act 1997 or other relevant legislation;
 - (d) he has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with an organisation engaged in the provision of health care services for the purposes of the health service in England. In other cases of dismissal such as capability, an individual may be permitted to become a governor at the discretion of the Trust and subject to full disclosure of the relevant circumstances and facts concerning the dismissal;
 - (e) he is a medical practitioner who has been disqualified by a direction under any applicable legislation and or has been removed from any list prepared there under;
 - (f) he is any other health or social care practitioner whose professional and/or other registrations appropriate to his practice and specialty have been suspended, disqualified, revoked or removed in any manner or he has otherwise failed to maintain or lost his registration for any disciplinary breaches or pursuant to any other proceedings and such registration has not been subsequently reinstated;
 - (g) he has failed to sign and deliver to the Secretary a statement in the form required by the Council of Governors confirming acceptance of the Code of Conduct for Governors;
 - (h) he is a spouse, partner, parent or child of a member of the Board of Directors of the Trust;

- (i) he is under a warning from the Trust for verbal and/or physical abuse towards Trust staff, staff contracted to provide a service for the Trust or its patients or visitors;
 - (j) he fails to attend two meetings of the Council of Governors in any Financial Year, unless the Council of Governors is satisfied that the absences were due to reasonable causes and he will be able to start attending meetings of the Trust again within such a period as they consider reasonable; or
 - (k) he is, or is the spouse or partner of, a member of a clinical commissioning group (for the purposes of the Health and Social Care Act 2012 that commissions services from the Trust⁶) unless otherwise appointed in accordance with the Constitution;
 - (l) he is a member of a local authority's Scrutiny Committee covering health matters;
 - (m) he is a person who has been disqualified from being a member of a relevant authority under the provisions of the Local Authority Act 2000;
 - (n) he is a person who, on the basis of disclosures obtained through an application to the disclosure and barring service, is considered unsuitable by the Trust's Board of Directors.
2. In the following circumstances it is for the Chairman to determine in his/her absolute discretion as to whether a Governor falls into one of the following categories for disqualification, in which case he may not become or continue as a member of the Council of Governors:
- (a) he is incapable by reason of mental disorder, illness or injury of managing and administering his property and affairs; or
 - (b) he is a vexatious complainant to the hospital.
3. The Chairman may implement the procedure set out in Annex 5AA if in his/her absolute discretion he/she determines that a Governor should be considered for disqualification or removal for special reasons.
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Annex 5AA - Governors' Standards Committee

1. The Governors' Standards Committee

- 1.1. The Governors' Standards Committee is a committee of the Council of Governors that shall meet as and when required in response to a referral of a matter (or linked matters) to the committee by the Chairman under Annex 5A paragraph 3. The committee shall comprise of a minimum of 7 members to include the Chairman, three (3) Public Governors; one (1) Staff Governor; and two (2) Appointed Governors. Committee members for the purposes of this paragraph 1.1 shall consist of volunteers for the committee. In the event that the number of volunteers exceeds the number of required appointments, members shall be selected for the appointments by lot.
- 1.2. In exercising his/ her role as a member of the Governors' Standards Committee each Governor must:
 - 1.2.1. act independently and in good faith in considering the issues; and
 - 1.2.2. if required by the Chairman or the Trust Secretary confirm in writing that they do not have a conflict of interest regarding the issues being considered and report to the Trust Secretary as soon as reasonably practicable if any such conflict of interest arises.
- 1.3. The Governors' Standards Committee membership shall be disbanded following the conclusion of any review process under this Annex 5AA. Any subsequent references to the Governors' Standards Committee shall require membership to be constituted under paragraph 1.1 anew.

2. Meetings of the Governors' Standards Committee

- 2.1. The Chairman may convene a meeting of the Governors' Standards Committee to consider whether a Governor should be disqualified or removed for special reasons (in accordance with paragraph 3 of Annex 5A) on ten (10) clear days' notice, such notice to be provided in writing to the members of the Governors' Standards Committee.
- 2.2. Such special reasons may include, but are not limited to, where the Chairman in his/her absolute discretion has reason to believe that the Governor has acted or is likely to have acted in a manner which:
 - 2.2.1. endangers patients and/or staff,
 - 2.2.2. is not in line with appropriate actions as a member of a public body;
 - 2.2.3. constitutes a serious breach of the Code of Conduct for Governors;
 - 2.2.4. is subject to a criminal investigation which, if convicted, would lead to a sentence of imprisonment (whether suspended or not) for a period of not less than three (3) months (without the option of a fine) imposed on him/her;
 - 2.2.5. involves making a false declaration (either knowingly or recklessly) for any purpose provided for under this constitution or in the 2006 Act;
 - 2.2.6. prohibits the Trust from fulfilling its principal purpose or any other purpose, duty or function under its constitution;
 - 2.2.7. is harmful to the Trust's work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods and services;
 - 2.2.8. is likely to adversely affect public confidence in the goods and services provided by the Trust or in the Trust;

- 2.2.9. is detrimental to the interests of the Trust; and/or
- 2.2.10. is otherwise likely to bring the Trust into serious disrepute.
- 2.3. The Governors' Standards Committee shall meet in a closed and private session on a confidential basis to consider the conduct of a Governor in accordance with paragraph 2.1 and 2.2 above. Records of the discussion shall be taken by the Trust Secretary but minutes shall not be distributed.
- 2.4. The Governors' Standards Committee may request the assistance of an external adviser, who may attend meetings of the Governors' Standards Committee and make representations to the Governors' Standards Committee, if it is deemed appropriate for him/her to do so.
- 2.5. The Governor whose conduct is being discussed shall have the opportunity to submit representations to the Governors' Standards Committee in advance of the meeting referred to in paragraph 2.3 above and may attend that meeting to make a statement and answer any questions the Governors' Standards Committee may raise.

3. Report to and decision of the Council of Governors

- 3.1. The findings and recommendations of the Governors' Standards Committee shall be reported to the full Council of Governors at a meeting of the Council of Governors (to be held on ten (10) clear days' notice following the meeting held in accordance with paragraph 2.1 above, such notice to be provided in writing). The Council of Governors shall meet in a closed and private session on a confidential basis to consider the recommendations of the Governors' Standards Committee. Records of the discussion shall be taken by the Trust Secretary but the minutes shall not record the issues discussed.
- 3.2. At the meeting convened under paragraph 3.1 above, the Council of Governors shall hold a vote on whether the Governor in question should be removed on the basis of the recommendations of the Governors' Standards Committee. The vote shall be determined on a show of hands and shall require three quarters of those present and voting in favour for the motion on the removal of such Governor to be passed.
- 3.3. Any motion passed to remove a Governor under this procedure shall be included in the public minutes of the Council of Governors but no reference to the discussions held at the meetings referred to herein is to be made in the minutes of the Council of Governors.
- 3.4. Any Governor who has been removed by the Council of Governors following a recommendation by the Governors' Standards Committee may not put themselves forward for re-election or permit themselves to be nominated for re-appointment as a Governor of the Trust.

Annex 5B Governor's Declaration

A person may not stand for election to the Council of Governors as a public governor unless he has made a declaration in the form specified below of his qualification to vote as a member of the public constituency and is not prevented from being a member of the Council of Governors by paragraph 14 (disqualification and removal). It is an offence to knowingly or recklessly make a declaration under section 60 of the 2006 Act which is false in a material particular.

THE DECLARATION

KINGSTON HOSPITAL NHS FOUNDATION TRUST (the "Trust")

I, [insert name] of [insert address] hereby declare that I am entitled to stand for election to the Council of Governors as a governor elected by the public constituency because I am a member of the public constituency and I am not prevented from being a member of the Council of Governors of the Trust by paragraph 8 of Schedule 7 to the National Health Service Act 2006, which states;

- 8 (1) The following may not become or continue as members of the board of governors
- (a) a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged,
 - (b) 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,
 - (c) a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

I further hereby declare that I am entitled to stand for election to the Council of Governors as a governor elected by the public constituency under the Constitution of the Trust.

Note - All serving Governors (both elected and appointed) are asked to sign the declaration of compliance as outlined above, on an annual basis.

Signed.....

Print Name.....

Date of Declaration.....

ANNEX 5C - Vacancies

Where an elected public or staff governor ceases to hold office within six months of his appointment, the Trust shall offer the candidate who is not currently a governor and who secured the second highest number of votes in the last election for the constituency (or class of constituency, as the case may be) in which the vacancy has arisen the opportunity to assume the vacant office for the unexpired balance of the retiring member's term of office. If that candidate does not wish to fill the vacancy it will then be offered to the candidate who secured the next highest number of votes until the vacancy is filled.

If no reserve candidate is available or willing to fill the vacancy, or if the vacancy occurs beyond the six month period, an election will then be held in accordance with the Election Scheme save that if an election is due to be held within 6 months of the vacancy having arisen the office will stand vacant until the next scheduled election unless by so doing this causes the number of Public Governors to be less than half the total membership of the Council of Governors. In that event an election will be held in accordance with the Election Scheme as soon as reasonably practicable.

The Returning Officer under the Election Scheme shall maintain a record of votes cast at each election under the Election Scheme for the above purposes and the Returning Officer shall conduct or shall oversee the conducting of the process set out above.

Eligibility to stand as Governor may be checked against the full Electoral Register or equivalent to confirm the candidate is a current member of that constituency as at the time that nominations close.

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

ANNEX 5D – Lead Governor and Deputy Lead Governor

1 Criteria

- 1.1 The Council of Governors shall select a public governor to undertake the role of Lead Governor. An indicative outline of the responsibilities of the Lead Governor is provided at paragraph 3 below.
- 1.2 Governors wishing to undertake the role of Lead Governor must be:
- able to commit time to this role;
 - prepared to acquire a detailed knowledge and understanding of foundation trust governance arrangements / requirements and their role and responsibilities within those arrangements;
 - prepared to acquire a detailed knowledge and understanding of current issues within the Trust.
- 1.3 Desirable personal qualities for a Lead Governor include:
- excellent interpersonal and communication skills;
 - the ability to deal with potential conflicts;
 - the ability to command the respect, confidence and support of their governor colleagues;
 - the ability to represent the views of governor colleagues.

2 Process

- 2.1 The process for the selection and appointment of the Lead Governor shall be as follows:
- (a) the Lead Governor shall be elected by their peers at the last general meeting of the Council of Governors held prior to the expiry of the incumbent Lead Governor's term of office in their capacity as Lead Governor. Where there is to be a change of incumbent, the newly elected Governor shall hold office as shadow Lead Governor whilst the incumbent Lead Governor completes their term in office. Where a ballot is required, all Governors shall be entitled to vote. The Chairman (or Deputy Chairman if presiding as Chairman of the Council of Governors) shall not participate in the ballot but shall have a casting vote in the event of a tie.
 - (b) once elected in accordance with paragraph 2.1 (b) above, the shadow Lead Governor's term as Lead Governor shall commence upon the expiry of the incumbent Lead Governor's term of office.
 - (c) If the Lead Governor position otherwise falls vacant, the vacancy shall be filled by holding an election of the Council of Governors at the next general meeting to find a replacement to fill the seat for the unexpired period of the term of office.
 - (d) At least one calendar month before the date of the meeting of the Council of Governors the Trust Secretary shall contact all Governors by post inviting nominations.
 - (e) Where more than one nomination is received, the names of all the nominated candidates shall be distributed and a secret ballot shall be conducted. The Trust Secretary, or his/her nominee, shall act as returning officer and shall

announce the results of the election before the close of the meeting when the results will be made available for scrutiny by Governors as required. Where there is only one nomination, the Council of Governors shall be asked to ratify the appointment.

- (f) The appointment as Lead Governor shall be effective for two years or (if earlier):
 - until that person resigns the position of Lead Governor by giving notice to the Chairman in writing; or
 - until that person is removed from the position of Lead Governor by a resolution passed by three quarters of the remaining governors at a general meeting of the Council of Governors.
- (g) A Governor may serve two consecutive two year terms as Lead Governor, following which a period of two years must elapse before that Governor is eligible for re-election as Lead Governor.
- (h) Time served as Deputy Lead Governor will not count towards a governor's subsequent terms of office in the position of Lead Governor.
- (i) The Trust Secretary shall be responsible for notifying Monitor of a change of Lead Governor.

3. Responsibilities of the Lead Governor

An indicative outline of the responsibilities of the Lead Governor is provided at below. The Trust and the Lead Governor shall have reference to Appendix B of Monitor's publication "The Foundation Trust Code of Governance" March 2010 (as amended and/or reissued or revised from time to time) in respect of the responsibilities of the Lead Governor and the discharge of them.

- (j) To lead the Council of Governors in circumstances where it may not be considered appropriate for the Chairman, Deputy Chairman or another one of the Non-Executive Directors to lead (e.g. chairing a meeting to discuss the appointment of a new chairman) and to act as the point of contact with Monitor where it is decided by the Governors or Monitor that the usual channel (through the Chairman) is not warranted.
- (k) On behalf of the Council of Governors, to attend the monthly meetings with the Chairman and the Trust Secretary.
- (l) On behalf of the Council of Governors, to raise issues for discussion at the Trust Board.
- (m) To assist the Chairman in facilitating the flow of information between the Trust Board and the Council of Governors.

4. Deputy Lead Governor

- 4.1. The Council of Governors shall select a public governor to undertake the role of Deputy Lead Governor. Selection shall not preclude the governor from standing for the position of Lead Governor should an election take place during their tenure as Deputy Lead Governor, nor shall selection as Deputy Lead Governor

determine that the governor shall progress to appointment as Lead Governor in place of the process described in paragraph 2.1.

- 4.2. If the Lead Governor is unable to attend a meeting which requires the attendance of the Lead Governor, the Deputy Lead Governor shall act as Lead Governor for the duration of that meeting.
- 4.3. If the Lead Governor is unable to discharge his/her duties (for reasons of ill health; is otherwise incapacitated; or is out of the country) then the Deputy Lead Governor shall be acting Lead Governor.
- 4.4. The process for the appointment and selection of the Deputy Lead Governor shall be as described for the Lead Governor in paragraph 2.1 above. A Governor may serve two consecutive two year terms as Deputy Lead Governor, following which a period of two years must elapse before that Governor is eligible for re-election as Deputy Lead Governor.
- 4.5. Time served as Lead Governor will not count towards a governor's subsequent terms of office in the position of Deputy Lead Governor.
- 4.5. The Trust shall inform Monitor of the contact details of the Deputy Lead Governor.

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

(Paragraph 17)

1. Meetings of the Council of Governors

1.1 Admission of the Public and the Press

All meetings of the Council of Governors are to be open to members of the public unless two thirds of the members of the Council of Governors present decide otherwise in relation to all or part of the meeting for reasons of commercial confidentiality or other special reasons. The Chairman may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

1.2 Calling, Notice and Minutes of Meetings

The Council of Governors is to meet a minimum of four times (including the AGM) in each financial year. Before each meeting of the Council of Governors, a notice of the meeting specifying the business proposed to be transacted shall be delivered to every Governor so as to be available to him at least five clear working days before the meeting. Notice will also be published on the Trust's website and, if practicable, in the Trust's membership newsletter.

Meetings of the Council of Governors may be called by the Secretary, the Chairman, or by ten Governors (including at least two elected Governors and two appointed Governors) who give written notice (including by fax and email) to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Governors as soon as possible after receipt of such a request and will call a meeting of the Council of Governors within the next twenty eight days. If the Secretary fails to convene such a meeting then the Chairman or ten Governors, whichever is the case, shall convene such a meeting.

Minutes of any meeting of the Council of Governors shall be published on the website following formal approval at the subsequent meeting.

1.3 Chair of the Meeting

In accordance with paragraph 15 of the Constitution the Chairman of the Trust (i.e. the Chairman of the Board of Directors) or in his absence, the Deputy Chairman of the Trust (i.e. the Deputy Chairman of the Board of Directors), shall preside at meetings of the Council of Governors. If the Chairman or the Deputy Chairman (as appropriate) is absent, or is disqualified from participating, then the Lead Governor shall preside for that meeting or part of the meeting. If the Lead Governor is absent or is disqualified from participating then the Governors present shall choose by majority which Public Governor present shall preside for that part of the meeting.

1.4 Quorum

No business shall be transacted at a meeting of the Council of Governors unless at least one third of the all Governors are present, such number to include at least 5 Public

Governors and 2 Staff Governors and 1 appointed Governor, who shall constitute a quorum.

1.5 Voting

Except on the issues which the Constitution requires to be settled by a larger majority, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes. In any vote, in the case of an equality of votes the person presiding at or chairing the meeting shall have a second and casting vote.

Without prejudice to the right of the Chairman to call for a vote at a meeting on such matters as he may in his absolute discretion deem appropriate, a Governor may require the Chairman to take a vote at a meeting on the following matters (notwithstanding the absence of such a matter from the agenda for such meeting):

- (i) if the meeting is a general meeting for the purposes of Schedule 7 to the National Health Service Act 2006, any matter in respect of the following:
 - (a) to appoint or remove the Chairman and the other Non-Executive Directors;
 - (b) to decide the remuneration and allowances and the other terms and conditions of office of the Non-Executive Directors;
 - (c) to appoint or remove the Trust's auditor;
 - (d) to be presented with the annual accounts, any report of the auditor on them and the annual report;
 - (e) to consider the annual accounts, any report of the auditor on them and the annual report;
- (ii) any matter in respect of the following:
 - (a) to approve, by a majority of the Council of Governors voting, an appointment (by the Non-Executive Directors) of the Chief Executive;
 - (b) to give the views of the Council of Governors to 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;
 - (c) to respond as appropriate when consulted by the Directors in accordance with this Constitution.

All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if deemed appropriate by the Chairman.

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

In no circumstances may an absent Governor vote by proxy. Absence shall mean being absent at the time of the relevant vote.

Where the Chairman or a Governor desires that a resolution is passed by the Council of Governors, the Chairman or the Governor (with the consent of the Chairman) may circulate the resolution amongst the Governors proposing that it is passed as a written resolution. For the resolution to be validly passed, the majority of all the Governors must approve the resolution and either: (i) return a copy of the signed written resolution by hand to the Company Secretary; (ii) send a copy of the signed written resolution by post to the Trust, marked for the Company Secretary's attention, or (iii) confirm their response in writing via e-mail. A response to a written resolution sent by email shall be deemed to have been delivered on the date of transmission. Any Governor's vote shall only count once so received by the Company Secretary. Any written resolution that is so passed shall be noted at the next meeting of the Council of Governors. The Company Secretary shall keep a written record of all written resolutions from the date of their adoption, for a period of not less than six years, with written clear evidence of the Governors' agreement to a resolution (and for these purposes a record of an email from such person evidencing his/her agreement to the proposed resolution shall suffice).

2. Committees

The Council of Governors may not delegate any of its powers to a committee or sub-committee, but it may appoint committees to assist the Council of Governors in carrying out its functions. The Council of Governors may appoint Governors to such committees and may invite Directors and other persons to attend in an advisory, non-voting capacity. The Council of Governors may, through the Secretary request that external advisors assist them or any committee they appoint in carrying out its duties. Committees established by the Council of Governors may meet in private for reasons of commercial confidentiality or other special reasons if the members of the Committee so decide.

3. Confidentiality

In the event of the Council of Governors, or any Committee established by the Governors, meeting in private for all or part of a meeting, Governors shall not disclose outside of the Council of Governors meetings the contents of the papers, discussions or minutes of the items taken in private.

4. Disclosure of interests

The Constitution requires Governors to declare any pecuniary, personal or family interest, whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors. A family interest will include those of a Governor's spouse or partner. All Governors should declare such interests. Any Governors appointed or elected subsequently should do so on appointment or election.

4.1 Such interests should include:

- a) Directorships, including non-executive directorships held in private companies, PLC's or public benefit corporations (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) Any other commercial interest in the decision before the meeting.

The following exceptions shall not be treated as interests:

- an employment contract with the Trust held by a Staff Governor;
- an employment contract with their employing CCG held by a CCG Governor;
- an employment contract with a local authority held by a local authority Governor;
- an employment contract with a partnership organisation held by a partnership Governor.

5. Declaring interests

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

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

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

6. Code of Conduct

All members of the Council of Governors are required to comply with any Code of Conduct for Governors adopted by the Council of Governors or Board of Directors from time to time and with the Trust's values.

7. Additional Provisions

The Board of Directors may establish additional protocols and procedures for the operation of the Council of Governors as appropriate from time to time.

ANNEX 7 FURTHER PROVISIONS

Annex 7A Disqualification or removal from membership

An individual may not become or continue as a member of the Trust (and the register will be amended accordingly) if:

- (a) the individual is under fourteen years of age, or
- (b) he is or wishes to become a member of the Public Constituency and he does not, or no longer, resides in the catchment area set out in Annex 1; or
- (c) in the last five years he has perpetrated a serious incident of violence towards any facilities of the Trust or against any of the Trust's employees or registered volunteers, staff contracted to provide a service for the Trust , in association with their employment with the Trust or the Trust's patients or visitors as defined in the Trust Policy " Policy for the care of Individuals who are Violent or Aggressive" or any successor policy. Notwithstanding anything contained in this constitution, no person who ceases to be a member of the Trust pursuant to paragraph (c) shall be re-admitted to membership except by a decision of the Board of Directors; or
- (d) if, in the opinion of the Council of Governors, after following the proper procedures as required by the Standing Orders of the Council of Governors, there are reasonable grounds to believe that he is likely to act in a way that is detrimental to the interests of the Trust; or
- (e) an individual shall be removed from membership of the Trust if a member, who is a member under the provisions of paragraph 8 of the constitution (staff), ceases to be employed by the Trust or otherwise ceases to satisfy the conditions for eligibility for membership of the Trust in accordance with such paragraph.

Appointment process for Chairman and Non Executive Directors

The process for putting in place a nominations committee is detailed in the Governance Handbook

ANNEX 7B DISPUTES RESOLUTION

(Paragraph 21)

Dispute resolution procedure

Except where otherwise specified in this constitution or the standing orders of the Council of Governors, questions of eligibility, procedure and administrative matters in relation to governorship or meetings of Members or governors shall be determined by the Secretary. There will be a right of appeal to the Chairman, whose decision shall be final and binding.

Except where otherwise specified in this Constitution, matters in relation to Directorship or meetings of Directors shall be determined by the Secretary, with a right of appeal to the Chairman, whose decision shall be final and binding.

In the event of a dispute between the Council of Governors and the Board of Directors, the Council of Governors and the Board of Directors shall meet and attempt to resolve the dispute by negotiation. If agreement cannot be reached then the dispute shall be referred to the Chairman, whose decision shall be final and binding.

In the event of the Council of Governors considering the Trust to be at risk of breaching its terms of authorisation, such referral should be via the nominated lead governor to Monitor, if these concerns cannot be satisfactorily resolved (para B.1.9 Code of Governance).

ANNEX 7C NON EXECUTIVE DIRECTORS; DEFINITION OF INDEPENDENCE

NHS Foundation Trust: Code of Governance provisions

(Paragraph 15, 16 & 24.3)

Independence of Non Executive Directors will be in accordance with the Code of Governance issued by Monitor and as revised or amended from time to time.

Full details are available in the Governance Manual around such issues as the detailed Code of Conduct of the Council of Governors (media and communications code, roles and responsibilities, communication and engagement), full form Standing Orders for the Board of Directors and for the Councils of Governors, conflict of interest policy, definitions of the independence of directors, and to the process for appointing the Executives and the Chairman.

ANNEX 8 ANNUAL MEMBERS' MEETING

(Paragraph 10)

1. MEMBERS' MEETINGS

- 1.1. The trust shall hold a members' meeting for all members (called the "Annual Members' Meeting") within six months of the end of each financial year of the trust.
- 1.2. Any members' meeting other than the Annual Members' Meeting shall be called a "Special Members' Meeting".
- 1.3. Both Annual Members' Meetings and any Special Members' Meetings shall be open to all members of the trust, members of the Council of Governors and members of the Board of Directors, together with representatives of the trust's auditors, and to members of the public. The trust may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the trust to attend any such meeting.
- 1.4. The Board of Directors may convene an Annual Members' Meeting or a Special Members' Meeting when it thinks fit, subject to paragraph 1.1. The Council of Governors may request the Board of Directors to convene a members' meeting.
- 1.5. The Board of Directors (or at least one member thereof) shall present to the members at the Annual Members' Meeting:
 - 1.5.1. the annual accounts;
 - 1.5.2. any report of the auditor on them;
 - 1.5.3. the annual report a report on steps taken to secure that (taken as a whole) the actual membership or the trust is representative of those eligible for such membership;
 - 1.5.4. the progress of the membership plan
 - 1.5.5. the results of any election and appointments to the Council Governors, and any other reports or documentation it considers necessary or otherwise required by Monitor or the 2006 Act.
- 1.6. The trust shall give notice of all members' meetings:
 - 1.6.1. by notice in writing to all members;
 - 1.6.2. by notice prominently displayed at the trust's headquarters and at all of the trust's hospitals;
 - 1.6.3. by notice on the trust's website; and
 - 1.6.4. to the Council of Governors, the Board of Directors, and to the trust's auditors,

stating whether the meeting is an Annual Members' Meeting or a Special Members' Meeting including the time, date, place of the meeting, and the business to be dealt with at the meeting at least 14 working days before the date of the relevant members' meeting (or, in the case of an Annual Members' Meeting, at least 21 working days before the date of the relevant meeting).

- 1.7. An accidental omission to give notice of a members' meeting or to send, supply or make available any document or information relating to the meeting, or the non-receipt of any such notice, document or information by a person entitled to receive any such notice, document or information shall not invalidate the proceedings at that meeting.
- 1.8. The Chair or in his absence the Deputy Chair shall preside at all members' meetings of the trust. If neither the Chair nor the Deputy Chair is present, the governors present shall elect one of their number to act as Chair.
- 1.9. The quorum for a members' meeting shall be 8 (eight) members present and entitled to vote. If a quorum is not present within thirty minutes from the time appointed for the meeting, the meeting shall stand adjourned for a minimum of seven days until such time as the Board of Directors determine.
- 1.10. The Chair may, with the consent of a members' meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn a members' meeting from time to time and from place to place or for an indefinite period.
- 1.11. A resolution put to the vote of a members' meeting shall be decided on a show of hands.
- 1.12. No business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.
- 1.13. If the Board of Directors, in its absolute discretion, considers that it is impractical or unreasonable for any reason to hold a members' meeting at the time, date or place specified in the notice calling that meeting, it may move and/or postpone the general meeting to another time, date and/or place.
- 1.14. In the case that a members' meeting is adjourned or postponed for 14 days or more, at least seven working days' notice shall be given specifying the time and place of the adjourned members' meeting and the general nature of the business to be transacted.
- 1.15. The Board of Directors may make any arrangement and impose any restriction it considers appropriate to ensure the security of a members' meeting.
- 1.16. Any approval to speak at a members' meeting must be given by the Chair. Speeches must be directed to the matter, motion or question under discussion or to a point of order. Unless in the opinion of the Chair it would not be appropriate or desirable to time limit speeches on any topic to be discussed having regard to its nature, complexity or importance, no proposal, speech or any reply may exceed three minutes. In the interests of time, the Chair may, in his or her absolute discretion, and where that discretion is exercised reasonably, limit the number of replies, questions or speeches which are heard at any one members' meeting.

- 1.17. A person who has already spoken on a matter at a members' meeting may not speak again at that meeting in respect of the same matter except (i) in exercise of a right of reply, or (ii) on a point of order.
- 1.18. The Board of Directors shall cause minutes to be made and kept, in writing, of all proceedings at members' meetings.