

SALISBURY NHS FOUNDATION TRUST

CONSTITUTION

Version 13: May 2013

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1. INTERPRETATION AND DEFINITIONS

- 1.1. Unless otherwise stated, words or expressions used in this constitution have the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.
- 1.2. Words importing the masculine gender only shall include the feminine gender. Words importing the singular shall import the plural and vice versa where it is appropriate that they do so.
- 1.3. The 2006 Act is the National Health Service act 2006 as amended at any time, and the 2012 Act is the Health and Social Care Act 2012 as amended at any time.
- 1.4. Monitor is the corporate body known as Monitor as provided by section 61 of the 2012 Act.
- 1.5. Constitution means this constitution and its annexes (save that the standing orders set out for convenience in annexes 7 and 8 are not part of the constitution). It comes into effect when it has been approved both by more than half of the members of the Council of Governors voting, and by more than half of the Board of Directors voting.
- 1.6. The Accounting Officer is the person who discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.
- 1.7. The Code of Conduct is the Code of Conduct as set out in the Standing Orders of the Council of Governors.

2. NAME

- 2.1. The name of the foundation trust is the Salisbury NHS Foundation Trust, and the Trust means that trust.

3. PRINCIPAL PURPOSE

- 3.1. The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.
- 3.2. The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
- 3.3. The Trust may provide goods and services for any purposes related to–
 - 3.3.1. the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - 3.3.2. the promotion and protection of public health.
- 3.4. The Trust may also carry on activities other than those mentioned in this paragraph for the purpose of making additional income available in order better to carry out its principal purpose.
- 3.5. The Trust may carry out research in connection with the provision of health care, and may make facilities and staff available for the purposes of education, training or research carried on by others.

4. POWERS

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

5. MEMBERSHIP AND CONSTITUENCIES

- 5.1. The Trust shall have members, each of whom shall be a member of one of the following constituencies:
 - 5.1.1. A public constituency
 - 5.1.2. A staff constituency

6. APPLICATION FOR MEMBERSHIP

- 6.1. An individual who is eligible to become a member of the Trust shall become a member on his application to the Trust to become a member.

7. PUBLIC CONSTITUENCIES

- 7.1. The public constituencies are the areas specified in Annex 1 and individuals living within them may become members of the Trust.
- 7.2. The individuals who live in the areas so specified are referred to collectively as a Public Constituency.
- 7.3. An individual who ceases to live in the areas specified in Annex 1 shall cease to be a member of the Trust. A member who moves from one such area to another shall continue to be a member but shall have a right to vote in any election of governors in accordance with the new area.
- 7.4. The minimum number of members in each Public Constituency is specified in Annex 1, and if the number of members does not equal or exceed the minimum the area shall not be treated as a Public Constituency for the purpose of electing governors.

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 other than under a contract of employment with the Trust, may become or continue as members of the staff constituency provided that they have exercised these functions continuously for a period of at least 12 months.

- 8.3. Individuals eligible for membership of the Trust under this paragraph are referred to collectively as the Staff Constituency.
- 8.4. The Staff Constituency shall be divided into 6 classes of individuals as set out in Annex 2
- 8.5. The minimum number of members in each class of the Staff Constituency is specified in Annex 2, and if the number of members in a class does not equal or exceed the minimum number that class shall not be treated as a class for the purpose of electing governors.

9. AUTOMATIC MEMBERSHIP BY DEFAULT – STAFF

- 9.1. An individual who is:
 - 9.1.1. eligible to become a member of the Staff Constituency, and
 - 9.1.2. invited by the Trust to become a member of the Staff Constituency,shall become a member of the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

10. PATIENTS' CONSTITUENCY

There is no Patients' Constituency.

11. PARAGRAPH 11 IS NOT USED

12. RESTRICTIONS ON MEMBERSHIP

- 12.1. An individual who is a member of a constituency, or of a class within a constituency, may not while such membership continues be a member of any other constituency or class.
- 12.2. An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any other constituency.
- 12.3. An individual must be at least 16 years old to become a member of the Trust.
- 12.4. An individual may not become or remain a member of the Trust if they have been convicted of any offence involving violent, threatening or abusive behaviour on Trust property or in connection with receiving services from the Trust.
- 12.5. A member of the Trust shall inform the Secretary of the Trust of any circumstances which may affect their entitlement to be a member.
- 12.6. Where the Trust has reason to believe that a person may be disqualified from becoming a member or no longer entitled to be a member, the Secretary may give the member 14 days written notice to show why he should not become or remain a member. On receipt of such response as may be made by the member, or failing any response, the Secretary may, if he considers it appropriate, refuse the application to become a member or remove the member from the register of members. If the person wishes to dispute a decision of the Secretary not to admit him to membership or to remove him, he may refer the issue to the Council of Governors, whose decision by a majority of the governors voting shall be final.

12.7. A member may resign by written notice to the Secretary of the Trust.

13. ANNUAL MEMBERS' MEETING

13.1. The Trust shall hold an annual meeting of its members, 'the Annual Members Meeting'. It shall be open to the public.

14. COUNCIL OF GOVERNORS – COMPOSITION

14.1. The Trust is to have a Council of Governors comprising both elected and appointed governors.

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

14.3. 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 class is specified in Annex 4.

14.4. No person may stand for election as a governor or be appointed as a governor unless he will be at least 18 years old when he becomes a governor.

15. COUNCIL OF GOVERNORS – ELECTION OF GOVERNORS

15.1. Elections for the elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules current at the time of the election.

15.2. The Model Election Rules are those as published from time to time by the Department of Health, and form part of this Constitution. The Rules current at the time of the coming into effect of this constitution are set out in Annex 5.

15.3. A subsequent variation of the Model Election Rules by the Department of Health does not constitute an amendment of the constitution for the purpose of paragraph 48 hereof (amendment of the constitution).

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

15.5. In the event of an elected governor ceasing to hold office, if there are then more than 15 months of his term of office left after his resignation, ceasing to hold office or death, then an election shall be held for his replacement. The person elected shall hold office for the remainder of the period for which the governor he is replacing was last elected.

16. COUNCIL OF GOVERNORS – TENURE

16.1. Subject to 15.5 and 16.2, an elected governor may hold office for a period of up to 3 years.

16.2. An elected governor may stand for re-election but may not stand for re-election when, if re-elected, he might serve for more than 9 years in all.

- 16.3. An appointed governor may hold office for a period of up to 3 years and may then be re-appointed but shall not hold office for more than 9 years in all. He shall cease to hold office if his appointing organisation withdraws its appointment of him by notice in writing to the Trust or if the appointing organisation ceases to exist.
- 16.4. A governor may resign by giving notice in writing to the Chairman of the Trust.
- 16.5. In the event of an appointed governor ceasing to hold office, the body appointing him may make a further appointment.
- 16.6. The limits of 9 years in sub-paragraphs 16.2 and 16.3 shall in the case of an elected governor include any time served as an appointed governor, and in the case of an appointed governor include any time served as an elected governor.

17. COUNCIL OF GOVERNORS – DISQUALIFICATION AND TERMINATION OF OFFICE

- 17.1. The following may not stand for election or continue as a member of the Council of Governors:
 - 17.1.1. a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 17.1.2. 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;
 - 17.1.3. 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;
 - 17.1.4. The further persons set out in Annex 6.
- 17.2. 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.
- 17.3. If a governor fails to attend 3 consecutive scheduled meetings of the Council of Governors, he shall cease to be a governor unless a voting majority of the other governors are satisfied that:
 - 17.3.1. the failure was in their opinion due to a reasonable cause or causes, and
 - 17.3.2. he will be able to, and will, start attending meetings of the Council within such period as they consider reasonable.
- 17.4. A governor shall cease to be a governor if he is adjudged by not less than 75% of the remaining Council of Governors to have:
 - 17.4.1. acted in a manner inconsistent with the core principles set out in the Trust's authorisation, or with the Constitution, or with the Code of Conduct, in such a way that he should cease to be a governor, or

- 17.4.2. failed to declare a material interest pursuant to paragraph 22 below and participated in a meeting where that interest was relevant, in such a way that he should cease to be a governor.
- 17.5. Where circumstances arise which give rise to an issue as to a governor's ability to remain a governor (other than those referred to in paragraphs 17.3 and 17.4 above), the governor shall give written notice of the circumstances to the Secretary of the Trust and shall state whether he is resigning.
- 17.6. In the event of a notice being given under sub-paragraph 17.3 which states that the governor is not resigning, or where no such notice is received but circumstances as to a governor's ability to remain a governor (other than those set out in paragraphs 17.3 and 17.4 above) come to the notice of the Trust, the issue shall be considered by the other governors at a meeting and if 75% of the remaining Council of Governors consider that the governor is disqualified from continuing as a governor, he shall cease to be a governor.
- 17.7. A governor shall not exercise any function as a governor (including attending any meeting of the Council as a governor) if he has not signed and delivered to the Secretary a statement in the form required by the Council confirming that he accepts the Code of Conduct.
- 17.8. If a governor who is an employee of the Trust is suspended as an employee as a part of a disciplinary process, the Chairman of the Trust may suspend the governor from acting as a governor while the governor remains suspended as an employee.

18. COUNCIL OF GOVERNORS – DUTIES OF GOVERNORS, EQUIPPING GOVERNORS, LEAD GOVERNOR & DEPUTY LEAD GOVERNOR

- 18.1. The general duties of the Council of Governors are–
 - 18.1.1. to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors, and
 - 18.1.2. to represent the interests of the members of the Trust as a whole and the interests of the public.
- 18.2. The Trust must take steps to secure that the governors are equipped with the skills and with the knowledge that they require in their capacity as governors.
- 18.3. The governors shall choose a Lead Governor and a Deputy Lead Governor as set out in the Council's standing orders. The Lead Governor and the Deputy Lead Governor shall have the functions set out in the standing orders.

19. COUNCIL OF GOVERNORS – MEETINGS OF GOVERNORS

- 19.1. The Chairman of the Trust, that is the Chairman of the Board of Directors, or in his absence, the Deputy Chairman or, in his absence, the Lead Governor (or Deputy Lead Governor), shall preside at meetings of the Council of Governors.

- 19.2. Where it is inappropriate by reason of the subject matter of a meeting that it should be chaired by the Chairman, the Deputy Chairman may preside unless it is also inappropriate that the Deputy Chairman preside, in which case the Lead Governor or in his absence the Deputy Lead Governor may preside.
- 19.3. Meetings of the Council of Governors shall be open to members of the public, but the public may be excluded from all or any part of the meeting by resolution of the Council for special reasons, namely that publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of the business or proceedings.
- 19.4. The Council of Governors shall meet at least 4 times a year, including an annual meeting no later than 31 October when the Council shall receive and consider the annual accounts, any report of the Auditor on them, and the Trust's annual report. The meetings shall be called by the Secretary after consultation with the Lead Governor.
- 19.5. The Lead Governor (or in the case of the Lead Governor's unavailability the Deputy Lead Governor) or at least 10 governors may, by written notice to the Secretary stating the business to be considered, requisition a meeting of the Council, and the Secretary shall arrange for a meeting to be held as soon as practicable after notice has been given to the governors.
- 19.6. For the purpose 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.
- 19.7. The Council of Governors will establish statutory committees to carry out such functions as are required by law and to carry out such functions as the Council specifies.
- 19.8. The Council of Governors will establish working groups to carry out such functions as the Council specifies.

20. COUNCIL OF GOVERNORS – STANDING ORDERS

- 20.1. The Council of Governors shall adopt standing orders for the practice and procedure of the Council. Those in force as at the date of the adoption of this constitution are set out in Annex 7. They may be amended as provided in them.

21. COUNCIL OF GOVERNORS – REFERRAL TO THE PANEL

- 21.1. 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 –
 - 21.1.1. to act in accordance with its constitution, or
 - 21.1.2. to act in accordance with provision made by or under Chapter 5 of the 2006 Act.
- 21.2. 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.

22. COUNCIL OF GOVERNORS – CONFLICTS OF INTEREST OF GOVERNORS

- 22.1. If a governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the governor shall disclose that interest to the members of the Council of Governors as soon as he becomes aware of it. The 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.
- 22.2. For the avoidance of doubt a governor has a personal interest where the governor or a person close to the governor has had a personal experience which might be considered to affect the governor's view of the matter in question.

23. COUNCIL OF GOVERNORS – TRAVEL EXPENSES

- 23.1. The members of the Council of Governors are not entitled to remuneration, but the Trust shall on application pay travelling and other expenses incurred by a member for the purpose of his duties at rates to be decided by the Trust.

24. PARAGRAPH 24 IS NOT USED

25. BOARD OF DIRECTORS – COMPOSITION

- 25.1. The Trust is to have a Board of Directors, which shall comprise both executive and non-executive directors.
- 25.2. The Board of Directors is to comprise:
 - 25.2.1. a non-executive Chairman
 - 25.2.2. a maximum of 7 other non-executive directors
 - 25.2.3. a maximum of 6 executive directors (subject to 25.4 below), to include:
 - 25.2.3.1. a Chief Executive who shall be the Accounting officer,
 - 25.2.3.2. a Finance Director.
- 25.3. One of the executive directors must be a qualified medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984) and one must be a registered nurse or midwife.
- 25.4. The number of non-executive directors including the Chairman must always exceed the number of executive directors. At any meeting where there is parity of non-executive and executive directors the Chairman, or in his absence the Deputy Chairman, shall have a casting vote.
- 25.5. Only a member of a public constituency or the patients' constituency is eligible for appointment as a non-executive Director.

26. BOARD OF DIRECTORS – GENERAL DUTY

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

27. PARAGRAPH 27 IS NOT USED

28. BOARD OF DIRECTORS – APPOINTMENT AND REMOVAL OF CHAIRMAN AND NON-EXECUTIVE DIRECTORS

- 28.1. The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chairman of the Trust and the other non-executive directors.
- 28.2. Removal of the Chairman or any other non-executive director shall require the approval of 75% of the members of the Council of Governors.
- 28.3. The Standing Orders of the Council shall provide for nomination committees to identify appropriate candidates for appointment as Chairman and as non-executive directors.

29. PARAGRAPH 29 IS NOT USED

30. BOARD OF DIRECTORS – DEPUTY CHAIRMAN

- 30.1. After consultation with the Council of Governors the Board of Directors shall appoint one of the non-executive directors to be the Deputy Chairman. The Deputy Chairman shall also have the functions previously exercised by the Senior Independent Director, namely in particular to act as a means of communication between the non-executive directors and the governors.

31. BOARD OF DIRECTORS – APPOINTMENT AND REMOVAL OF THE CHIEF EXECUTIVE AND EXECUTIVE DIRECTORS

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

32. PARAGRAPH 32 IS NOT USED

33. BOARD OF DIRECTORS – DISQUALIFICATION

- 33.1. The following may not be appointed or continue as a member of the Board of Directors:
- 33.1.1. a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
- 33.1.2. 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;

33.1.3. 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.

33.1.4. The persons referred in Annex 9.

34. BOARD OF DIRECTORS – MEETINGS

34.1. Before holding a meeting the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors.

34.2. As soon as practical after holding a meeting the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

34.3. Meetings of the Board of Directors shall be open to members of the public.

34.4. Members of the public may be excluded from all or any part of a meeting by a resolution of the Board for special reasons, namely that publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of the business or proceedings.

35. BOARD OF DIRECTORS – STANDING ORDERS

35.1. The standing orders for the practice and procedure of the Board of Directors are attached at Annex 8. They may be amended as provided in them.

36. BOARD OF DIRECTORS – CONFLICTS OF INTEREST OF DIRECTORS

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

36.1.1. a duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or may possibly conflict) with the interests of the Trust;

36.1.2. a duty not to accept a benefit from a third party by reason of being a director or by reason of doing or not doing anything in that capacity.

36.2. The duty referred to in sub-paragraph 36.1.1 is not infringed if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest.

36.3. The duty referred to in sub-paragraph 36.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

36.4. In sub-paragraph 36.1.2 'third party' means a person other than the Trust or a person acting on its behalf.

36.5. 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 before the Trust enters into the transaction or arrangement.

- 36.6. If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- 36.7. Any declaration required by this paragraph must be made before the trust enters into the transaction or arrangement.
- 36.8. 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.
- 36.9. A director need not declare an interest –
- 36.9.1. if it cannot be reasonably regarded as likely to give rise to a conflict of interest;
 - 36.9.2. if, or to the extent that, the directors are already aware of it;
 - 36.9.3. if, or to the extent that, it concerns terms of the director's appointment that have been or are to be considered by a meeting of the Board of Directors, or by a committee of the directors appointed for the purpose under the constitution.

37. BOARD OF DIRECTORS – REMUNERATION AND TERMS OF OFFICE

- 37.1. The Council of Governors shall decide at a general meeting of the Council the remuneration and allowances, and the other terms and conditions of office, of the Chairman and the other non-executive directors.
- 37.2. The Trust shall establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms of office, of the Chief Executive and the other executive directors.
- 37.3. The Chairman and other non-executive directors may be appointed for initial terms of 3 years, which may be renewed by the Council for a further 3 years. An appointment may thereafter be renewed on a year by year basis up to a maximum of three further years provided that in relation to each renewal there are exceptional circumstances.

38. REGISTERS

- 38.1. The Trust shall have:
- 38.1.1. a register of members, showing in respect of each member, the constituency to which the member belongs and, where there are classes within it, the class to which he belongs.
 - 38.1.2. a register of members of the Council of Governors;
 - 38.1.3. a register of interests of Governors;
 - 38.1.4. a register of directors; and
 - 38.1.5. a register of interests of directors.

39. PARAGRAPH 39 IS NOT USED

40. REGISTERS – INSPECTION AND COPIES

- 40.1. The Trust shall make the registers specified in paragraph 38 above available for inspection by members of the public, except in the circumstances set out in the next sub-paragraph or as otherwise prescribed by regulations.

- 40.2. The Trust shall not make any part of its registers available for inspection by members of the public which shows details of:
 - 40.2.1. any member of the Patients' Constituency; or
 - 40.2.2. any other member of the Trust, if the member so requests.
- 40.3. So far as the registers are required to be made available:
 - 40.3.1. They are to be available for inspection free of charge at all reasonable times; and
 - 40.3.2. A person who requests a copy or extract from the registers is to be provided with a copy or extract.
- 40.4. 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.

41. DOCUMENTS AVAILABLE FOR PUBLIC INSPECTION

- 41.1. The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
 - 41.1.1. A copy of the current constitution;
 - 41.1.2. A copy of the latest annual accounts and of any report of the auditor on them; and
 - 41.1.3. A copy of the latest annual report.
- 41.2. The Trust shall also make the following documents available for inspection by members of the public free of charge at all reasonable times:
 - 41.2.1. A copy of any order made under section 65D (appointment of special trust 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;
 - 41.2.2. A copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
 - 41.2.3. A copy of any information published under section 65D (appointment of special trust administrator) of the 2006 Act;
 - 41.2.4. A copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
 - 41.2.5. A copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
 - 41.2.6. 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;
 - 41.2.7. A copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;

- 41.2.8. A copy of any final report published under section 65I (administrator's final report) of the 2006 Act;
- 41.2.9. 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;
- 41.2.10. A copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.
- 41.3. Any person who requests a copy or extract from any of the above documents is to be provided with a copy.
- 41.4. If the person requesting an extract or copy is not a member of the Trust, the Trust may impose a reasonable charge for doing so.

42. AUDITOR

- 42.1. The Trust shall have an auditor.
- 42.2. The Council of Governors shall appoint or remove the auditor at a general meeting of the Council.
- 42.3. The auditor must be qualified to act as auditor in accordance with paragraph 23 of schedule 7 to the 2006 Act.
- 42.4. The auditor shall comply with schedule 10 of the 2006 Act and shall have the rights and powers there set out.
- 42.5. The Trust shall provide the auditor with every facility and all information which he may reasonably require for the purpose of his functions.

43. AUDIT COMMITTEE

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

44. ACCOUNTS

- 44.1. The Trust must keep proper accounts in such form as Monitor may with the approval of the Treasury direct and proper records in relation to those accounts.
- 44.2. Monitor may, with the approval of the Secretary of State for Health, give directions to the Trust as to the content and form of its accounts.
- 44.3. The accounts are to be audited by the Trust's auditor.
- 44.4. The following documents will be made available to the Comptroller and Auditor General for examination at his request:
 - 44.4.1. the accounts;
 - 44.4.2. the records relating to them; and
 - 44.4.3. any report of the Auditor on them.
- 44.5. The Trust (through its Chief Executive and accounting officer) is to prepare in respect of each Financial Year annual accounts in such form as Monitor may with the approval of the Secretary of State for Health direct.

- 44.6. Monitor may with the approval of the Secretary of State for Health direct the Trust:
- 44.6.1. to prepare accounts in respect of such period or periods as may be specified in the direction; and/or
 - 44.6.2. that any accounts prepared by it by virtue of sub-paragraph 44.6.1 above are to be audited in accordance with such requirements as may be specified in the direction.
- 44.7 In preparing its annual accounts or in preparing any accounts by virtue of sub-paragraph 44.6.1 above, the Trust is to comply with any directions given by Monitor with the approval of the Secretary of State for Health as to:
- 44.7.1 the methods and principles according to which the annual accounts are to be prepared; and/or
 - 44.7.2 the content and form of the annual accounts.
- 44.8 The Trust must –
- 44.8.1 lay a copy of the annual accounts, and any report of the Auditor on them, before Parliament; and
 - 44.8.2 send copies of the annual accounts, and any report of the Auditor on them to Monitor within such a period as Monitor may direct.
- 44.9 The Trust must send a copy of any accounts prepared by virtue of paragraph 44.6(a) above and a copy of any report of the Auditor to Monitor within such a period as Monitor may direct.
- 44.10 The functions of the Trust referred to in this paragraph 44 shall be delegated to the accounting officer.

45. ANNUAL REPORT, FORWARD PLANS AND NON-NHS WORK

- 45.1. The Trust shall prepare an annual report and send it to Monitor.
- 45.2. The annual report must give:
- 45.2.1. information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of any public constituency and of the patients' constituency is representative of those eligible for membership.
 - 45.2.2. information on any occasions in the period to which the report relates on which the council of governors exercised its power to require one or more of the directors to attend a meeting as provided by paragraph 19.5 hereof.
 - 45.2.3. information on the corporation's policy on pay and on the work of the committee established under paragraph 37(2) hereof and such other procedures as the corporation has on pay.
 - 45.2.4. information on the remuneration of the directors and on the expenses of the governors and the directors.
 - 45.2.5. any other information that Monitor requires.

- 45.3. The Trust shall give information as to its forward planning in respect of each financial year to Monitor.
- 45.4. The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.
- 45.5. In preparing the document, the directors shall have regard to the views of the governors, and the directors shall provide the governors with information appropriate for them to be able to form their views.
- 45.6. Each forward plan must include information about:
 - 45.6.1. 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
 - 45.6.2. the income it expects to receive from doing so.
- 45.7. Where a forward plan contains a proposal that the trust carry on an activity of the kind mentioned in sub-paragraph 45.6.1, the Council of Governors must:
 - 45.7.1. 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
 - 45.7.2. notify the directors of the Trust of its determination.
- 45.8. If the Trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of health service in England, the Trust may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

46. PRESENTATION OF THE ANNUAL ACCOUNTS AND REPORTS TO THE GOVERNORS AND MEMBERS

- 46.1. The following documents are to be presented to the Council of Governors at a general meeting of the Council:
 - 46.1.1. the annual accounts
 - 46.1.2. any report of the auditor on them
 - 46.1.3. the annual report.
- 46.2. 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.
- 46.3. The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 46.1 with the Annual Members' Meeting.

47. INSTRUMENTS

- 47.1. The Trust shall have a seal.
- 47.2. The seal shall not be affixed except under the authority of the Board of Directors.

48. AMENDMENT OF THE CONSTITUTION

- 48.1. The Trust may make amendments of its constitution only if –
 - 48.1.1. more than half of the members of the Council of Governors of the Trust voting approve the amendments, and
 - 48.1.2. more than half of the members of the Board of Directors of the Trust voting approve the amendments.
- 48.2. Amendments made under paragraph 48.1 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, not accord with Schedule 7 of the 2006 Act.
- 48.3. Where amendment is made to the constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust) –
 - 48.3.1. at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and
 - 48.3.2. the Trust must give the members an opportunity to vote on whether they approve the amendment.
- 48.4. 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.
- 48.5. 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.

49. MERGERS ETC. AND SIGNIFICANT TRANSACTIONS

- 49.1. The Trust may only apply for a merger, acquisition, separation or dissolution, as referred to in sections 56, 56A, 56B, and 57A of the 2006 Act with the approval of more than half of the members of the Council of Governors.
- 49.2. The Trust may only enter 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.
- 49.3. A 'significant transaction' is a transaction which, if entered into by the Trust:
 - 49.3.1. would increase or reduce the turn-over of the Trust (in a financial year relative to the previous financial year) by £20 million or by 10%, whichever is the greatest;
 - 49.3.2. would involve a receipt of or capital expenditure of £10 million or more; in the case of expenditure, this is after the deduction of any grant or gift which specifically relates to the expenditure in question;

- 49.3.3. would involve a service contract, asset rental or lease running for period of 3 years or more with a planned income or cost over its duration of £10 million or more.
 - 49.3.4. would be likely to put at risk the Trust's ability to provide its services as a whole, or a significant part of its services, to the appropriate regulatory standard;
 - 49.3.5. would be likely to put at risk the Trust's ability to maintain the minimum required financial risk rating/ continuity of service risk rating
- 49.4. Where a proposed transaction satisfies the definition above, the Board shall submit this to the Council of Governors for approval at the earliest opportunity
- 49.4.1. Where it might reasonably be considered that a transaction falls within paragraph 49.3 the Board shall inform the Council of the transaction at the earliest opportunity.
 - 49.4.2. The Board shall in any event inform the Council of a transaction which it is considering and which may involve a sum which is greater than 2% of the Trust's income in the previous year, but the Board need not so inform the Council of any such transaction if the transaction has been clearly identified in the Annual Estimate, the Capital Programme or the Annual Plan.
- 49.5. In deciding whether to approve a proposed significant transaction the Council will:
- 49.5.1. act in accordance with its judgment of the best interests of the Trust; and
 - 49.5.2. have regard to the risks the transaction might entail and the adequacy of steps proposed to mitigate those risks, and to the risks which not entering into the transaction might entail.
- 49.6. If the Council votes not to approve a significant transaction, the reasons advanced in the course of the Council's discussion of the transaction for and against approval shall be recorded in the minutes.
- 49.7. The Board shall inform the Council of transactions not featuring in the annual estimates, capital programme or annual plan for the year which the Board is considering which involve a sum which is greater than 2% of the Trust's income or capital in the previous year.

50. INDEMNITY

- 50.1. Members of the Council of Governors and of the Board of Directors who act honestly and in good faith will be indemnified by the Trust against any civil liability which is incurred in the execution or purported execution of their functions relating to the Trust, save where they have acted recklessly. The Trust shall take out insurance against liability under this indemnity.

51. DISPUTE RESOLUTION

- 51.1. In the event of a dispute arising between the Board of Directors and the Council, the Chairman shall take the advice of the Secretary and such other advice as he sees fit, and he shall confer with the Vice-Chairman and the Lead Governor and shall seek to resolve the dispute.
- 51.2. If the Chairman is unable to do so, he shall appoint a committee consisting of an equal number of directors and governors to consider the matter and to make recommendations to the Board and Council with a view to resolving the dispute.
- 51.3. If the dispute is not resolved, the Chairman may refer the dispute to an external mediator appointed by the Centre for Dispute Resolution, or by such other organisation as he considers appropriate

ANNEX 1 - THE PUBLIC CONSTITUENCIES

Public Constituency (paragraph 7)

Class/Constituency	Number of Governors	Minimum numbers of members
North Dorset	2	50
Kennet	1	50
New Forest	1	50
West Wiltshire	1	50
Salisbury City	3	50
South Wiltshire Rural	5	50
East Dorset	1	50
Rest of England	1	50
Total	15	

Class/ Constituency	Area
North Dorset	<p>Part of the area covered by North Dorset District Council, comprising the following electoral wards:</p> <ul style="list-style-type: none"> ▪ Damory Down ▪ Hilltop ▪ Old Town ▪ St Leonards ▪ Station ▪ Bourton & District ▪ Cranborne Chase ▪ Gillingham Lodbourne ▪ Gillingham Town ▪ Hillforts ▪ Milton ▪ Motcombe ▪ Marnhull ▪ Portman ▪ Riversdale ▪ The Beacon ▪ Shaftesbury Underhill ▪ Shaftesbury Central ▪ Shaftesbury Grosvenor ▪ Shaftesbury Christy's ▪ Stour Valley ▪ The Stours ▪ The Lower Tarrant ▪ Wyke

Kennet	<p>The area formerly covered by Kennet District Council comprising the following electoral wards:</p> <ul style="list-style-type: none"> • Bromham, Rowde & Potterne • Devizes East • Devizes North • Devizes & Roundway South • Ludgershall & Perham Down • Pewsey • Pewsey Vale • Roundway • Summerham & Seend • The Lavingtons & Erlestoke • The Collingbournes & Netheravon • Tidworth • Urchfont & The Cannings
New Forest	<p>The following wards within New Forest District Council:</p> <ul style="list-style-type: none"> ▪ Downlands & Forest ▪ Fordingbridge ▪ Forest North West ▪ Ringwood North ▪ Ringwood South ▪ Ringwood East & Sopley
West Wiltshire	<p>The area covered by the former West Wiltshire District Council comprising the following electoral divisions:</p> <ol style="list-style-type: none"> 1. Ethandune 2. Warminster Copheap & Wylve 3. Warminster East 4. Warminster West 5. Warminster Broadway 6. Warminster Without 7. Westbury West 8. Westbury North 9. Westbury East
Salisbury City	<p>The following electoral divisions formerly covered by Salisbury District Council:</p> <ul style="list-style-type: none"> • Bemerton • Fisherton & Bemerton Village • Harnham • St. Paul's • St. Francis & Stratford • St. Marks & Bishopdown • St. Edmund's & Milford • St. Martin's & Cathedral
South Wiltshire Rural	<p>The following electoral divisions</p> <ul style="list-style-type: none"> • Alderbury & Whiteparish • Amesbury West • Amesbury East • Bourne & Woodford Valley

	<ul style="list-style-type: none"> • Bulford, Allington & Figcheldean • Durrington & Larkhill • Downton & Ebble Valley • Fovant & Chalke Valley • Laverstock, Ford & Old Sarum • Mere • Nadder & East Knoyle • Redlynch & Landford • Till & Wylde Valley • Tisbury <ol style="list-style-type: none"> 1. Wilton & Lower Wylde Valley 2. Winterslow
East Dorset	<p>The following electoral wards within the area covered by East Dorset District Council:</p> <ul style="list-style-type: none"> • Alderholt • Crane • Handley Vale • Holt • Newton • St. Leonards & St. Ives East • St. Leonards & St. Ives West • Three Legged [Cross] & Potterne • Verwood Dewlands • Verwood Stephen's Castle • West Moors
Rest of England	All other areas of England not covered above

ANNEX 2 – THE STAFF CONSITUENCY

(See paragraph 8).

The Staff Constituency is divided into 6 classes as set out below and the classes shall contain the groups set out by each.

STAFF CLASSES

SUB GROUPS WITHIN EACH CLASS

Registered Medical and Dental Practitioners

Nurses and Midwives

All Nurses and Nursing Auxiliaries
Health Care Support Workers (Nursing)

Scientific, Therapeutic and Technical Staff

Occupational Therapists and Helpers
Orthoptists
Physiotherapists and Helpers
Art/Music/Drama Therapists
Speech and Language Therapists and Helpers
Psychologists and Psychology Technicians
Psychotherapists
Medical Physicists and Technicians
Pharmacists and Pharmacy Technicians
Dental Technicians
Operating Department Practitioners
Social Workers
Chaplains
Clinical Scientists
Biomedical Scientists and Technical Staff
Geneticists and Technicians
Audiology Staff
Cardiographers and Support Staff

Hotel and Property Staff

Ancillary Staff
Works and Maintenance Staff
Ambulance Staff

Clerical, Administrative and Managerial Staff

Voluntary Staff

1. The minimum number of members of each class shall be 10.
2. The Secretary to the Trust shall assign persons to the classes set out above in accordance with the groups set out by each. In case of any difficulty the Secretary shall have discretion to allocate the person to the class which is in his opinion the most appropriate.
3. The Secretary shall maintain a register of volunteer schemes designated for the purposes of membership of the Trust.
4. A volunteer is a person who carries out functions on behalf of the Trust on a voluntary basis under a scheme on the register referred to in paragraph 4 above.
5. Where a person is eligible to be included both in the volunteers class and another class, the Secretary shall assign the person to that other class.

ANNEX 3 – THE PATIENTS’ CONSTITUENCY

The Trust has no Patients’ Constituency

ANNEX 4 - COMPOSITION OF COUNCIL OF GOVERNORS

See paragraph 14.

1. There shall be 15 public governors as set out in Annex 1.
2. There shall be 6 staff governors, one to be elected by the members of each class set out in Annex 2 from the members of the class in question.
3. Wiltshire Council may appoint one governor by notice in writing signed by the senior executive of the Council.
4. There shall be one governor appointed by Wessex Community Action.
5. The following Clinical Commissioning Groups may each appoint one governor.
 - a. Wiltshire
 - b. Dorset
 - c. West Hampshire

ANNEX 5 - THE MODEL ELECTION RULES

[See paragraph 15]

Part 1 - Interpretation

1. Interpretation

Part 2 – Timetable for election

2. Timetable
3. Computation of time

Part 3 – Returning officer

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

Part 5 – Contested elections

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

Action to be taken before the poll

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

The poll

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

Procedure for receipt of envelopes

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

Part 6 - Counting the votes

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

Part 7 – Final proceedings in contested and uncontested elections

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

Part 8 – Disposal of documents

49. Sealing up of documents relating to the poll
50. Delivery of documents
51. Forwarding of documents received after close of the poll
52. Retention and public inspection of documents
53. Application for inspection of certain documents relating to election

Part 9 – Death of a candidate during a contested election

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

Part 10 – Election expenses and publicity

Expenses

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

Publicity

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

Part 11 – Questioning elections and irregularities

- 61. Application to question an election

Part 12 – Miscellaneous

- 62. Secrecy
- 63. Prohibition of disclosure of vote
- 64. Disqualification
- 65. Delay in postal service through industrial action or unforeseen event

Part 1 - Interpretation

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

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

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

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

“the 2006 Act” means the NHS Act 2006

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

Part 2 – Timetable for election

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

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

Notice of the poll	Not later than the fifteenth day before the day of the close of the poll.
Close of the poll	By 5.00pm on the final day of the election.

3. Computation of time - (1) In computing any period of time for the purposes of the timetable -

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

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

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

Part 3 – Returning officer

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

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

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

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

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

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

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

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

9. Nomination of candidates – (1) Each candidate must nominate themselves on a single nomination paper.

(2) The returning officer-

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

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

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

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

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

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

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

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

- (a) that he or she is not prevented from being a member of the council of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

13. Signature of candidate – The nomination paper must be signed and dated by the candidate, indicating that –

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

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

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

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

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

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

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

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

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

(2) The statement must show –

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

standing, as given in their nomination paper.

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

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

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

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

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

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

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

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

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

(b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.

Part 5 – Contested elections

19. Poll to be taken by ballot –

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

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

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

(c) the number of members of the 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,

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

(g) the contact details of the returning officer.

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

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

21. The declaration of identity (public and patient constituencies) – (1) In respect of an election for a public or patient constituency a declaration of identity must be issued with each ballot paper.

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

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

(3) The declaration of identity is to include space

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

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

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

Action to be taken before the poll

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

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

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

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

- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

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

- (a) a ballot paper and ballot paper envelope,
- (b) a declaration of identity (if required),
- (c) information about each candidate standing for election, pursuant to rule 59 of these rules, and
- (d) a covering envelope.

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

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

(2) The covering envelope is to have –

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

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

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

The poll

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

27. Voting by persons who require assistance – (1) The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Procedure for receipt of envelopes

32. Receipt of voting documents – (1) Where the returning officer

receives a –

- (a) covering envelope, or
- (b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper,

before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

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

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

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

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

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

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

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

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

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

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

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

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

Part 6 - Counting the votes

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

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

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

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

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

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule stv44(4) below, “preference” as used in the following contexts has the meaning assigned below–

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

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

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

“stage of the count” means –

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

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

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

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

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

38. The count – (1) The returning officer is to –

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

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

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

Stv39. Rejected ballot papers – (1) Any ballot paper –

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

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

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

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

fpp39. Rejected ballot papers – (1) Any ballot paper –

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

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

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

(3) A ballot paper on which a vote is

marked –

- (a) elsewhere than in the proper place,
- (b) otherwise than by means of a clear mark,
- (c) by more than one mark,

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

(4) The returning officer is to –

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

(5) The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings –

- (a) does not bear proper features that have been incorporated into the ballot paper,
- (b) voting for more candidates than the voter is entitled to,
- (c) writing or mark by which voter could be identified, and
- (d) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of ballot papers rejected in part.

stv40. First stage –

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

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

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

stv41. The quota –

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

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

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

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

(a) according to next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

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

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

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

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

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

(a) according to the next available preference given on those papers for any continuing candidate, or

(b) where no such preference is given, as the sub-parcel of non-transferable votes.

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

- (7) The vote on each ballot paper transferred under paragraph (6) shall be at –
- (a) a transfer value calculated as set out in paragraph (4)(b) above, or
 - (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

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

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

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

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

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

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

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

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

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

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

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

stv44. Exclusion of candidates – (1) If—

- (a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule stv45 below, one or more vacancies remain to be filled,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the

order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

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

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

fpp46. Equality of votes – Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Part 7 – Final proceedings in contested and uncontested elections

fpp47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to –

- (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the council of governors from the constituency, or class within a constituency, for which the election is being held to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected—
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

stv47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to—

- (a) declare the candidates who are deemed to be elected under Part 6 of these rules as elected,

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

(2) The returning officer is to make –

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

available on request.

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

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

Part 8 – Disposal of documents

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

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

(d) the statement of rejected ballot papers.

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

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

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

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

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

51. Forwarding of documents received after close of the poll – Where –

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

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

52. Retention and public inspection of documents –

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

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

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

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

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

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

by any person without the consent of the Regulator.

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

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

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

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

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

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

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

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

Part 9 – Death of a candidate during a contested election

fpp54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to

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

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

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

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

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

(5) The returning officer is to –

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

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

(6) The returning officer is to endorse on each packet a description of –

(a) its contents,

(b) the date of the publication of notice of the election,

(c) the name of the corporation to which the election relates, and

(d) the constituency, or class within a constituency, to which the election relates.

(7) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (4) to (6), the returning officer is to deliver them to the chairman of the corporation, and rules 52 and 53 are to apply.

stv54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to –

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

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

Part 10 – Election expenses and publicity

Election expenses

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

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

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

57. Election expenses incurred by other persons – (1) No person may -

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

meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

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

Publicity

58. Publicity about election by the corporation – (1) The corporation may –

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

as it considers necessary.

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

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

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

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

(2) The information must consist of a statement submitted by the candidate of no more than 100 words,

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

(3) An application may only be made to the Regulator by -

- (a) a person who voted at the election or who claimed to have had the right to vote, or
- (b) a candidate, or a person claiming to have had a right to be elected at the election.

(4) The application must –

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

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

(6) If the Regulator requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

a. The Regulator shall delegate the determination of an application to a person or persons to be nominated for the purpose of the Regulator.

b. The determination by the person or persons nominated in accordance with Rule 61(7) shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

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

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

- (i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the candidate(s) for whom any member has voted.

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

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

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

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

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

65. Delay in postal service through industrial action or unforeseen event – If industrial action, or some other unforeseen event, results in a delay in –

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

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

ANNEX 6 - ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS - DISQUALIFICATION

(See paragraph 17)

In addition to the cases set out in paragraph 17, the following may not stand for election or continue as a governor:

1. A person who is the subject of a sexual offences order under the Sexual Offences Act 2003 or any subsequent legislation;
2. A person who is disqualified from being a company director under the laws of England and/or Wales;
3. A person who is a director of the Trust, or a governor, director, Chairman or chief executive of another NHS Foundation Trust or NHS Trust;
4. A person who is incapable by reason of mental disorder or illness or injury of managing his property and affairs;
5. A person who occupies the same household as an existing governor or a director of the Trust;
6. In the case of a public or patient governor, a person who has been employed by the Trust within 12 months prior to election, or becomes employed by the Trust
7. A person who has been removed from any list prepared under Part II of the National Health Service Act 1977, or has been removed from a list maintained pursuant to regulations made under section 28X of that Act, and has not been reinstated.

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

(See paragraph 20)

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1. INTRODUCTION

- 1.1. Paragraph 14 of Schedule 7 to the National Health Service Act 2006 provides that the constitution of an NHS foundation trust must make provision for the practice and procedure of the Council of Governors. The Council made such provision in its standing orders adopted in 2006. Paragraph 3.13 of those orders provided that they might be amended as there set out. At a meeting of the Council on 25 February 2013 in accordance with paragraph 3.13, these standing orders as set out herein were adopted in substitution of those orders.

2. INTERPRETATION

- 2.1. The expressions and terms used herein shall have the same meaning as in the Trust's Constitution.
- 2.2. 'The Constitution' means the constitution of the Trust.
- 2.3. 'The Council' means the Council of Governors.
- 2.4. A 'motion' means a formal proposition to be considered and voted on at a meeting of the Council.
- 2.5. An 'item for the agenda' means a matter to be considered at a meeting of the Council.
- 2.6. 'The Secretary' means the person appointed as the Secretary to the Trust.

3. MEETINGS OF THE COUNCIL

- 3.1. Paragraph 19.3 of the Constitution provides that meetings of the Council shall be open to members of the public but that the public may be excluded as there set out.
- 3.2. The dates, times and venues of meetings of the Council shall be arranged by the Secretary in consultation with the Chairman and the Lead Governor. There shall be at least 4 meetings in any year, in respect of which the dates and times shall be arranged, and notice given to the governors, before December of the previous year. At least 4 days clear notice of other meetings must be given.
- 3.3. If the Lead Governor (or in case of the Lead Governor's unavailability the Deputy Lead Governor), or at least 10 governors, give notice to the Secretary requiring a meeting stating the proposed agenda, the Secretary shall arrange a meeting as soon as practicable.
- 3.4. Notice of meetings of the Council shall be given to the governors by email (or post where a governor so requests).
- 3.5. Notice of meetings of the Council will be posted on the Trust's

website, as soon as practical after notice has been given to the governors.

4. AGENDA ITEMS AND MOTIONS

- 4.1. Save as provided in 3.3 above and 4.2 below, the agenda for meetings shall be arranged by the Secretary in consultation with the Chairman and the Lead Governor.
- 4.2. A governor wishing to have an item included in the agenda for a meeting of the Council or to propose a motion at a meeting shall give notice of the item or motion to the Secretary 10 clear days before the meeting unless the circumstances relating to the item make necessary a shorter period. In the case of a motion the notice shall name a governor who is prepared to second the motion, and shall otherwise be treated as invalid. The Secretary shall include in the agenda for the meeting all items and motions which have been duly notified. The Chairman of the meeting may, at his discretion, permit an item to be raised or a motion proposed where due notice has not been given.
- 4.3. A motion may be withdrawn at any time by the proposer with the agreement of the seconder and the consent of the chairman of the meeting.
- 4.4. No motion shall be proposed to amend or rescind any resolution, or the substance of any resolution, passed by the Council within the preceding 6 months unless it is signed by the proposer and seconder and by 4 other governors. Once such motion has been disposed of no motion to a similar effect may be proposed for 6 months without the consent of the Chairman of the Trust.
- 4.5. The proposer of a motion shall propose it and shall have a right to speak before a vote is taken.
- 4.6. During the consideration of a motion a governor may move:
 - 4.6.1. an amendment to the motion;
 - 4.6.2. that the consideration of motion be adjourned to a subsequent meeting;
 - 4.6.3. that the motion be summarily dismissed and the meeting to proceed to the next business;
 - 4.6.4. that the motion be voted on immediately.
- 4.7. No amendment to a motion may be submitted if its effect would be to negate the substance of the motion as determined by the chairman of the meeting.
- 4.8. Save where the chairman of a meeting permits otherwise, the agenda and any papers for the meeting shall be provided to

the governors not less than 5 working days before the meeting.

5. QUORUM

- 5.1. No business may be transacted at a meeting of the Council of Governors unless more than half of the governors are present.

6. RELEVANCE AND CONCISION

- 6.1. Statements made by governors at a meeting of the Council must be concise and relevant to the matter under discussion at the time.
- 6.2. The chairman of the meeting shall have power to rule on the relevance and regularity any statement, and to determine any issue arising as to the conduct of the meeting.
- 6.3. In any matter relating to the interpretation of the Constitution and Standing Orders the chairman of the meeting shall consider the advice of the Secretary.

7. VOTING

- 7.1. Save where it is otherwise provided by the constitution or these orders any matter on which a vote is taken shall be determined by a majority vote of the governors present and voting.
- 7.2. In the case of an equality of votes the person presiding shall have a vote to decide the matter (if that person is a governor, a second vote).
- 7.3. At the discretion of the chairman of the meeting, the vote may be taken orally, or by show of hands. If a majority of governors present so request, it shall be by secret paper ballot.
- 7.4. Save in the case of a secret paper ballot, if at least one third of the governors present request, the voting for and against of each governor shall be minuted.
- 7.5. If a governor requests, his vote shall be minuted.
- 7.6. No one may vote unless physically present: there shall be no votes by proxy.

8. MINUTES

- 8.1. Minutes of meetings shall be drawn up and circulated in draft as soon as practical after the meeting. They shall be submitted for approval at the next meeting and signed by the chairman of that meeting.
- 8.2. The minutes shall record the names of those attending.

9. SUSPENSION OF STANDING ORDERS

- 9.1. Except where to do so would contravene any statutory provision,

the terms of the Trust's authorisation or the Constitution, the chairman of any meeting of the Council may suspend any one or more of the Standing Orders.

- 9.2. A decision to suspend standing orders shall be recorded in the minutes.
- 9.3. A separate record of matters while the orders were suspended shall be made, and shall be provided to the governors with the minutes.

10. COMMITTEES

- 10.1. The Council may set up committees (with sub-committees) or working groups to consider aspects of the Council's business. They shall report to the Council.
- 10.2. The powers of the Council may be delegated to a committee for a specific purpose if the law and the Constitution permit, but otherwise the power of any committee is limited to making recommendations to the Council.
- 10.3. The powers of the Council shall be exercised in general meeting.
- 10.4. The Council shall approve the membership of committees, sub-committees and working groups, and may appoint persons with specialised knowledge or expertise useful to the committee on such terms as the Council may determine.
- 10.5. Meetings of the Council's committees, sub-committees and working groups shall be private. Their proceedings shall remain confidential until reported in public to a meeting of the Council.

11. NOMINATION COMMITTEES

- 11.1. Paragraph 28 of the Constitution provides for the appointment and removal of the Chairman of the Trust and the other non-executive directors by the Council. Paragraph 28.3 provides that the Council's standing orders shall provide for there to be a Nominations Committee or Committees to put forward persons for the Council to consider for appointment.
- 11.2. For the appointment of the Chairman, the Nominations Committee shall consist of:
 - 2 public governors, one of whom will chair the Committee
 - 1 staff governor
 - 1 appointed governor
 - 1 non-executive director
 - the Chief Executive.
- 11.3. For the appointment of non-executive directors, the Nominations Committee shall consist of:

- the Chairman, who will chair the Committee (or, at the Chairman's request the Deputy Chairman)
 - 2 public governors
 - 1 staff governor
 - 1 appointed governor
 - the Chief Executive.
- 11.4. When the formation of a Nomination committee is required the Secretary shall:
- 11.4.1. ask governors to put themselves forward as members within 10 days of his request, and if more governors put themselves forward than are places for particular categories of governor shall conduct an election or elections for each category with each governor having one vote in respect of each governor place on the committee;
- 11.4.2. In the case of a nomination for Chairman invite the non-executive directors to appoint a non-executive director to serve on the committee.
- 11.5. If a majority of the governors present at a meeting of the Council of Governors decide that the circumstances of a particular situation require the membership of a Nominations Committee to differ from that set out in paragraph 2 or 3 above, the membership of that Committee shall be as determined by that majority.

12. DECLARATIONS AND REGISTER OF INTERESTS

- 12.1. Paragraph 22 of the Constitution provides for declarations of interest. It states:
- 22.1 If a governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the governor shall disclose that interest to the members of the Council of Governors as soon as he becomes aware of it. The 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.*
- 22.2. For the avoidance of doubt a governor has a personal interest where the governor or a person close to the governor has had a personal experience which might be*

considered to affect the governor's view of the matter in question.

- 12.2. Interests should be declared to the Secretary within 28 days of appointment, or, if arising later, within 7 days of the governor becoming aware of the interest.
- 12.3. If a governor only becomes aware of an interest at a meeting of the Council (or at a meeting of any committee, sub-committee or working group) he must declare it immediately.
- 12.4. Subject to the exceptions below, material interests include:
 - 12.4.1. any directorship of a company;
 - 12.4.2. any interest held in any firm, company or business, which, in connection with the matter, is trading with the Trust, or is likely to be considered as a potential trading partner with the Trust;
 - 12.4.3. any interest in an organisation providing health and social care services to the National Health Service;
 - 12.4.4. a position of authority in a charity or voluntary organisation in the field of health and social care;
 - 12.4.5. any other interest which, in the opinion of a reasonable bystander would be liable to prejudice the ability of the governor to consider the matter before the Council fairly.
- 12.5. The exceptions are:
 - 12.5.1. shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange;
 - 12.5.2. an employment contract with the Trust held by a staff governor;
 - 12.5.3. an employment contract held with the appointing body by an appointed governor;
- 12.6. If a governor has any uncertainty as to an interest, he should discuss it in advance of any meeting with the Secretary. In case of doubt the interest should be declared.
- 12.7. The Secretary shall keep a record in a Register of Interests of all interests declared by governors. Any interest declared at a meeting shall also be recorded in the minutes of the meeting.
- 12.8. The Register shall be open to inspection by members of the public free of charge. A copy of any part will be provided on request and a reasonable charge for it may be made to persons who are not members of the Trust.
- 12.9. If a question arises at a meeting of the Council whether or not an interest of a governor is such that he should not be present when a matter is considered and should not vote on it, the chairman of the

meeting shall rule on the question having taken the advice of the Secretary.

12.10. A governor who has an interest in a matter under consideration by the Council shall not be present during such consideration and shall not take part in any vote in connection with it.

12.11. A failure to comply with any of the provisions of this paragraph may be considered by the Council as grounds for removal under paragraph 17.4 of the Constitution.

13. CODE OF CONDUCT

13.1. Governors shall agree to, and shall upon appointment sign a copy of, the Code of Conduct set out in the Appendix to these orders, and shall at all times comply with the Code.

14. CONFIDENTIALITY

14.1. It is the duty of a governor not to divulge any information which he receives in confidence, whether that confidence is expressed or arises from circumstances relating to the information.

14.2. Governors must keep secure all confidential matter recorded on paper or electronically, and must ensure that their NHS mail and forum details are not disclosed.

14.3. Agendas and minutes and information relating to those parts of meetings of the Board of Directors, or of meetings of the Council, which are not open to the public, are confidential.

14.4. The proceedings of committees and working groups which take place in private are confidential until reported to the Council at a meeting open to the public.

14.5. A governor should keep confidential any information which may come into his possession concerning a patient, a person associated with a patient, or a member of staff or a person associated with a member of staff, unless the information has entered the public domain.

14.6. Any matter which the Council has resolved shall be treated as confidential shall be so treated.

15. EXPENSES

15.1. Paragraph 23 of the Constitution provides that the Trust shall on application pay travelling and other expenses of governors incurred for the purpose of his duties at rates to be decided by the Trust.

15.2. Payment shall be made by the Secretary following receipt of a signed expenses form backed by receipts.

15.3. The total of the expenses paid to governors will be published in the Annual Report.

16. LEAD AND DEPUTY LEAD GOVERNOR'S APPOINTMENT

- 16.1. The Lead Governor and the Deputy Lead Governor must be elected governors.
- 16.2. The Lead Governor may serve for two years subject to a vote of approval at the meeting of the Council closest to the end of the first year. He may not serve again until at least one year has elapsed since he was Lead Governor.
- 16.3. 4 months before the termination of a Lead Governor's service, the Secretary shall ask for nominations by the completion of a nomination form within 21 days. Nominations must be proposed and seconded by two other governors with the permission of the nominee.
- 16.4. If more than one governor is nominated, a secret ballot will be arranged by the Secretary with each governor having one vote. The candidate securing the most votes is elected. If only one person is nominated, that person is chosen.
- 16.5. When a new Lead Governor has been chosen as set out in paragraphs 16.3 and 16.4, that governor shall act as Deputy Lead Governor until he becomes Lead Governor and in place of the person previously acting.
- 16.6. Following election, the Lead Governor shall nominate a governor to act as Deputy Lead Governor when the Lead Governor assumes office. The nomination shall come into effect following a vote approving the nomination at the next meeting of the Council. If the nominee is not approved, the Lead Governor shall nominate another governor. A nominee shall require a further vote of approval at the end of the first year.
- 16.7. In a case where a Lead Governor or Deputy Governor stands down or is unable to continue, whether by not securing a vote of approval at the end of the first year, by not obtaining re-election as a governor, or otherwise, a replacement shall be chosen by the processes set out above.

17. LEAD GOVERNOR AND DEPUTY LEAD GOVERNOR - ROLES

- 17.1. The role of the Lead Governor is:
 - 17.1.1. to chair meetings of the Council which cannot for any reason be chaired by the Chairman or the Deputy Chairman;
 - 17.1.2. to consult routinely with the governors regarding the planning and preparation of the agendas for Council meetings and work programme, and to agree them with the Chairman;
 - 17.1.3. to communicate regularly with the Chairman, to receive reports, as appropriate, on matters considered by the Board at closed

meetings, and to provide updates/information to all governors as may be appropriate in the circumstances and respecting the confidentiality of matters of which he has been informed on a confidential basis.

- 17.1.4. to be a point of contact for Monitor when appropriate;
- 17.1.5. to provide input into the appraisal of the Chairman;
- 17.1.6. to take an active role in the activities of the Council;
- 17.1.7. to be a point of contact for governors when they have concerns;
- 17.2. The role of the Deputy Lead Governor is to support and assist the Lead Governor, and to deputise for the Lead Governor when the Lead Governor is not available to act.

18. LEAD AND DEPUTY LEAD GOVERNORS - VOTE OF NO CONFIDENCE

- 18.1. If 8 governors sign a motion of no confidence in the Lead Governor or Deputy lead Governor and present it to the Chairman, the Chairman shall call an emergency meeting of the Council to be held within no more than 4 weeks from his receipt of the motion.
- 18.2. The Chairman will inform the Lead Governor (or Deputy Lead Governor) of his receipt of the motion but not of the names of the signatories, and he shall be invited to attend the meeting.
- 18.3. The meeting shall not proceed unless at least two thirds of the governors are present, and if they are not the motion will lapse.
- 18.4. At the meeting the Chairman will present the reasons for the motion and it will be debated. The Lead Governor (or Deputy Lead Governor) may address the meeting.
- 18.5. A secret ballot shall be taken (in which the Lead Governor - or Deputy Lead Governor - shall be entitled to vote). If more than half of the governors present support the motion, then the Lead Governor (or Deputy Lead Governor) shall stand down.
- 18.6. A Lead Governor or a Deputy Lead Governor against whom a motion of no confidence succeeds shall not be eligible to be Lead Governor or Deputy Lead Governor for 2 years.

19. DIRECTORS' ATTENDANCE

- 19.1. Paragraph 19.6 of the Constitution provides that the Council may require the attendance of one or more of the directors to attend a meeting for the purposes set out in the paragraph, which include the purpose of obtaining information about the Trust's performance of its functions.
- 19.2. The attendance of a director pursuant to paragraph 19.6 of the Constitution shall be obtained by request of the Lead Governor made to the Chairman. The Lead Governor may make a request at

his discretion but shall make one if 5 governors sign a notice requiring the attendance of a named director or directors stating the reason why the request is made.

20. FORWARD PLAN

- 20.1. Paragraph 45.5 of the Constitution provides that in preparing the Trust's forward plan the directors must have regard to the views of the governors, and that the directors shall provide the governors with information appropriate for them to be able to form their views.
- 20.2. The Trust's Strategic Development Working Group shall consider aspects of the proposed plan as they become available.
- 20.3. The proposed plan shall be considered at a joint meeting of the directors and the governors. It shall be provided to the governors, with the information required to form their views, in good time, at least 7 days, for the governors to consider it in advance of the meeting.

APPENDIX

CODE OF CONDUCT

Governors will:

1. Actively support the purpose and aims of Salisbury NHS Foundation Trust;
2. Act in the best interests of the Trust at all times, with integrity and objectivity, recognising the need for corporate responsibility, without expectation of personal benefit;
3. Contribute to the work of the Council of Governors so it may fulfil its role, in particular attending meetings of the Council and training events, serving on the committees and working groups of the Council, and attending members meetings, on a regular basis;
4. Recognise that the Council exercises collective decision-making on behalf of patients, public and staff;
5. Acknowledge that, other than when carrying out their duties as governors, they have no rights or privileges different from other members of the Trust;
6. Recognise that the Council has no managerial role within the Trust other than as provided by statute;
7. Respect the confidentiality of all confidential information received by them as governors as more particularly set out in paragraph 15 of the Council's Standing orders;
8. Conduct themselves in a manner to reflect positively on the Trust and not to conduct themselves so as to reflect badly on the Trust;
9. Recognise that the Trust is a non-political organisation;
10. Recognise that they are not, save in the case of appointed governors and their appointing body, representing any trade union, political party or other organisation to which they may belong, or its views, but are representing the constituency which elected them;
11. Seek to ensure that no one is discriminated against because of their religion, race, colour, gender, marital status, sexual orientation, age, social or economic status, or national origin;
12. Comply with the Council's Standing Orders;
13. Not make, or permit to be made, any statement concerning the Trust which they know or suspect to be untrue or misleading;
14. Recognise the need for great care in making public pronouncements, in particular any statement to the media, and will recognise the harm that ill-judged statements can cause to the Trust and to the patients and public the Trust and its governors serve. To this end:
 - (a) before making any statement for publication in the media a governor should take the advice of the Trust's press officer and of the Lead Governor, and take their observations into account;

- (b) any request by the media for comment should be forwarded to the Trust's press officer;
 - (c) if a governor considers that a media story requires a response, he will communicate his concern to the Lead Governor and the Trust's press officer rather than responding himself;
 - (d) it is not the role of a governor to speak in public on operational matters or matters concerning individual patients or staff;
15. Uphold the seven principles of public life as set out by the Nolan Committee, namely:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

Governor's undertaking

I, _____, of _____,
undertake as a governor of Salisbury NHS Foundation Trust to abide by the above Code
of Conduct including the obligations as to confidentiality and as to dealing with
the media there set out.

Signed

Date

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

(See paragraph 35)

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TRUST BOARD STANDING ORDERS

INTRODUCTION

- i. As set out in the Constitution, the Board of Directors of the Trust shall comprise a Chairman, and up to fourteen other Directors. The number of Executive Directors shall not exceed the number of Non-Executive Directors. The Chairman and Non-Executives are appointed by the Council of Governors who also approve the appointment of the Chief Executive.
- ii The Executive Directors shall as a minimum comprise the Chief Executive and Director of Finance by virtue of the posts they hold, together with a qualified nurse or midwife and a qualified doctor or dentist
- iii. Standing Orders incorporate the Standing Financial Instructions (SFIs) and Scheme of Delegation of the Trust which are included within this document. **Failure to comply with Standing Orders and SFIs is a disciplinary matter which, could result in dismissal.**
- iv. Any expression to which a meaning is given in the Health Service Acts, Statutory Instruments or in the Financial Directions made under the Acts shall have the same meaning in these instructions. Where there is any question regarding the legality of a proposed transaction legal advice should be sought via the Chief Executive, or Head of Corporate Governance.
- v. Salisbury NHS Foundation Trust has been established in accordance with the National Health Act 2006, hereinafter referred to as 'the Act'.
- vi. In these Standing Orders, unless the context of the statement requires otherwise:
 - * The male gender shall be deemed to include the female gender and vice versa and reference to the singular shall be deemed to include the plural and vice versa
 - * The term 'Monitor' refers to the Independent Regulator of Foundation Trusts as laid down in the Act.
 - * The term 'Trust' denotes 'Salisbury NHS Foundation Trust'
 - * The Foundation Trust is established through the Licence, issued by Monitor and these determine the responsibilities and activities of the Trust.
 - * The Foundation Trust has a 'Constitution' which establishes roles and responsibilities of the Trust and its Directors, Governors, and Members.

- * The term 'Chairman' refers to the formal post of Chairman of the Trust Board and who is also the Chairman of the Council of Governors, however in the context of meetings the term Chairman is also used to denote the individual chairing the meeting. The term Chairman is used to denote both male and female.
- * 'Members' are those people from trust's staff, patients or the general public who have chosen to join the membership register of the Trust.
- * The term 'Trust Board' or 'Board' refers to the Chairman, Non-Executive Directors and Executive Directors. The Chairman and Non-Executive Directors are appointed by the Council of Governors who also approve the appointment of the Chief Executive.
- * The term 'Chief Executive' means the chief officer of the Trust as appointed from time to time by the Board and approved by the Council of Governors. The Chief Executive is the 'Accounting Officer' of the Trust.
- * The term 'Director of Finance' means the chief financial officer of the Trust, as appointed from time to time by the Board. The actual title of the post may include other responsibilities.
- * The term 'Director' shall be used in the context of this document to refer only to members of the Trust Board and shall be deemed to include Executive Directors, Non-Executive Directors and the Chairman.
- * The term Executive Director shall incorporate the Chief Executive, Director of Finance, Director of Nursing, Medical Director, Director of Human Resources, and Chief Operating Officer.
- * The term 'Joint Board of Directors' denotes the top level executive group in the Trust and consists of Executive Directors of the Trust Board together with Clinical Directors and other senior staff as decided by the Chief Executive.
- * The 'Capital Control Group', is a sub-group of the Joint Board of Directors and acts on behalf of the Joint Board of Directors in respect of capital.
- * The term 'Head of Corporate Governance' refers to a specific post within the Trust responsible for servicing the Board and its Committees as specified by the Board from time to time. The post reports to the Chief Executive.
- * 'Estates Development Manager' refers to the individual appointed from time to time to be professionally responsible for estates matters of the Trust.
- * 'General Manager - Estates Technical Services' refers to the individual appointed from time to time to be professionally responsible for works

maintenance and development in the Trust.

* The term 'Budget' means an approved allocation of resources (expressed in financial and manpower terms where appropriate) for the purpose of achieving specific objectives over a defined period of time.

* References to husband and wife shall be deemed to include those who are not married but are living together as spouses or partners.

- vii. This document and its references are available on the Trust's web site or directly from the Head of Corporate Governance, or Director of Finance. Personnel Policies are available from the Director of Human Resources
- viii. All new staff will be made aware of the Standing Orders and Standing Financial Instructions and their availability as part of the Trust's induction process.

I. MEETINGS

(Constitution paragraph 34)

1 CALLING MEETINGS

1.1 The Chairman may call a meeting of the Trust Board at any time.

1.2 A requisition for an extraordinary meeting to be called, signed by at least one third of the existing number of Trust Board Directors, may be presented to the Chairman who shall call a meeting. If the Chairman shall not call a meeting within seven days after such requisition shall have been presented to him, the Directors presenting the requisition may, forthwith, call a meeting.

1.3 Ordinary meetings of the Trust Board shall be held at regular intervals in public and at such times and places as the Board may determine. There shall be a private section of such meetings where confidential matters may be discussed amongst Board Directors.

1.4 The Trust Board shall determine a date prior to 31 October each year for an Annual General Meeting with members, held in public, at which the audited accounts of the previous financial year and the Annual Report are presented.

2 NOTICE OF MEETINGS

(Constitution paragraph 34)

2.1 Before each meeting of the Trust Board, a notice of the meeting, specifying the business proposed to be transacted thereat, shall be delivered to every Director, or sent by post to the usual place of residence of such Director, or such other address as he shall require, so as to be available to such Director at least five clear days before the meeting, providing that:

- a. want of service of such notice on any Director shall not affect the validity of a meeting.
- b. in the case of a meeting called by Directors in default of the Chairman, the notice shall be signed by those Directors and no business shall be determined at the meeting other than that specified in the notice.

2.2 Notice of intention to hold a meeting of the Trust Board in public shall be posted on the Trust's website and circulated to the governors

2.3 In the case of the Annual General Meeting, members will be notified not less than 14 days prior to the date of the meeting. The notification shall state:

- a. the time, date and location of the meeting
- b. that the Annual Report and Accounts of the Trust will be presented at the meeting

3. ELECTION OF VICE-CHAIRMAN AND SENIOR INDEPENDENT DIRECTOR

(Constitution paragraph 30)

3.1 Any Director so elected may at any time resign from the office of Vice-Chairman by giving notice in writing to the Chairman, and the Directors of the Trust shall thereupon elect another of their Non-Executive Directors as Vice-Chairman in accordance with the provisions of this Standing Order.

4. CHAIRMAN OF MEETING

4.1 At any meeting of the Trust Board the Chairman if present, shall preside. If the Chairman is absent from the meeting, the Vice-Chairman if present, will preside. If the Chairman and Vice-Chairman are absent, another Non-Executive Director as the Directors present shall choose, shall preside at that meeting.

5. RECORD OF ATTENDANCE

5.1 The names of Directors present at a Trust Board meeting shall be recorded, and where such attendance is not for the full meeting the point at which they arrive or leave will be noted.

5.2 It is expected that Directors will make every effort to attend meetings and the Chairman will hold a record of attendance. Where a Director is not able to attend it is expected that the Director will advise the Chairman in advance. Where a Director has not been able to attend regularly and without good reason, such as ill health, then the Chairman will discuss with that Director their status within the Board.

6. QUORUM

6.1 No business shall be transacted at a Trust Board meeting unless at least four Directors (being two Non-Executive Directors and two Executive Directors), are present.

7. NOTICE OF MOTIONS

7.1 The Chairman shall routinely construct the agenda for meetings following discussion with the Chief Executive and the Board Secretary, and having taken into account matters raised with him by Directors.

7.2 Where a Director desires to formally have a matter raised with a

view to a resolution being passed, he shall send a notice of the motion at least ten working days before the meeting to the Chairman. The Chairman shall insert in the agenda for the next meeting all notices so received subject to the same being in order.

7.3 Any motion, whether moved at the meeting or of which written notice has been given beforehand, may be withdrawn without notice.

7.4 Directors shall have the right to report to the Board as a standing agenda item.

8. NOTICE OF MOTIONS

8.1 The mover of a motion shall have a right to reply at the close of any discussion on the motion or any amendment thereto.

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

- a. an amendment to the motion
- b. the adjournment of the discussion or the meeting
- c. that the meeting proceed to the next business
- d. the appointment of an ad hoc committee to deal with a specific item of business
- e. that the question be now put
- f. a motion resolving to exclude the public (including the press).

8.3 Whenever an amendment is proposed to an original motion, then unless the Board shall decide to the contrary no second amendment shall be proposed until the first amendment is resolved.

8.4 On the seconding of a motion, the Chairman, if he is of the opinion that the question before the Board has been sufficiently discussed, shall put the motion to the vote.

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

9. MOTION TO RESCIND A RESOLUTION

9.1 Notice of a motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding

six calendar months shall bear the signature of the Director who gives it and also the signature of two other Directors. When any such motion has been considered and dismissed by the Trust it shall not be competent for any Director other than the Chairman to propose a motion to the same effect within six months.

10. CLOSURE MOTIONS

10.1 If a motion under Paragraph 8.2b, 8.2c or 8.2e, is proposed and seconded the Chairman shall proceed as follows:

- a. On a motion to adjourn the debate or the meeting (Paragraph 8.2b) the Chairman shall decide whether in his opinion the original matter before the meeting has been discussed sufficiently. If he is of the opinion that such matter has not been discussed sufficiently, and that it is not reasonably possible to do so on that occasion, he shall put the adjournment motion to the vote without giving the mover of the motion his right of reply on that occasion.
- b. On a motion to proceed to the next business (Paragraph 8.2c) the Chairman shall decide whether in his opinion the matter raised has been discussed sufficiently and if so will give the mover of the original motion a right of reply following which the motion to proceed to the next business will be put to the vote.
- c. On a motion that the question be put (Paragraph 8.2e) the Chairman shall decide whether in his opinion the matter has been discussed sufficiently and if he is of the view that it has, he will put to the vote the motion that the question be put. If the motion is passed then the mover of the original motion shall be given a right of reply before putting the motion itself to the vote.

11. CHAIRMAN'S RULING

11.1 The decision of the Chairman of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and his interpretation of the Standing Orders, shall be final (except in the case of an error of law or mistake of fact). In his interpretation he may be advised by the Chief Executive or Director of Finance, and in the case of Standing Financial Instructions by the Director of Finance.

12. VOTING

12.1 Every question at a meeting shall be determined by a majority of the votes of Directors present and voting on the question and, in the case of an equality of votes, the Chairman of the meeting shall have a second

or casting vote.

12.2 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by show of hands provided that, upon any question the Chairman of the meeting may direct, or it may be proposed, seconded and carried that a secret vote be taken by paper ballot.

12.3 If at least one third of the Directors so request, the voting (save in the case of a secret ballot) on any question may be recorded so as to show how each Director present voted or did not vote.

12.4 If a Director so requests, his vote shall be recorded by name.

12.5 In no circumstances may an absent Director vote by proxy. However the views of an absent Director may be conveyed in writing to the Chairman who will inform the Board of the views expressed.

13. MINUTES

13.1 The Chairman of a meeting shall ensure that the minutes of the proceedings of the meeting shall be drawn up and when approved entered in a book kept for that purpose. Such minutes shall record details of any person who is excluded from the discussion of an issue and the reason.

(Constitution paragraph 34.2)

13.2 The minutes of a Board meeting shall be distributed to Directors and Governors within fifteen working days of that meeting and will be in draft form until approved by the Trust Board at its next meeting, upon which event the Chairman of that meeting will sign the minute book for correctness.

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

13.4 Where inaccuracies are identified in the minutes these will be corrected at the Board meeting to which the minutes are submitted and the amendments reported to a subsequent Board meeting in order to be ratified. The minute book may be signed subject to ratification of any changes. Where the amendments are purely of a typographical nature the minutes may be signed after correction by the Chairman and such changes need not be represented to the Board.

13.5 Members of staff and the public may have access to the minutes of the public session of the Board, and the minutes will be posted on the Trust's website. However where discussions have been held in confidence or cover matters of a confidential nature the minutes arising shall be treated in confidence and may only be viewed by Directors and Governors

14. ADMISSION TO TRUST BOARD MEETINGS

14.1 Except where the Trust Board shall, by formal resolution otherwise decide, the first part of all regular business meetings of the Trust Board shall be open to the press and the general public.

14.2 The attendance at the private section of Board meetings by personnel other than Directors is at the discretion of the Chairman.

15. INTEREST OF DIRECTORS IN CONTRACTS AND OTHER MATTERS

(Constitution paragraph 36)

15.1 In the interests of openness and transparency Directors shall disclose memberships of all organisations, clubs or societies to which they belong, and these shall be held in the register of Directors' Interests.

II. COMMITTEES AND SUB-COMMITTEES

16. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES

16.1 The Trust Board may appoint committees of the Trust consisting wholly or partly of the Chairman and Directors of the Trust or wholly of persons who are not Directors of the Trust.

16.2 The Trust Board will establish committees in respect of; Audit, Clinical Governance, Finance, Senior Medical Appointments (ad hoc), Local ACCEA Awards Committee, Staff Appeals (ad hoc), and Remuneration. The Local ACCEA Awards Committee shall be chaired by the Chief Executive. Each committee will be chaired by a Non-Executive Director and terms of reference and membership of such committees will be reviewed annually and approved by the Board (see Appendix B). The minutes of these committees shall be routinely presented to the Board for information and ratification if necessary.

16.3 A committee appointed under Paragraph 16.1 may, subject to such directions as may be given by the Trust Board, appoint sub-committees consisting partly of members of the committee (whether or not they are Directors of the Trust) together with persons who are not members of the committee.

16.4 Members of committees or sub-committees who are not Directors or employees of the Trust may claim expenses and subsistence payments, and may be remunerated if so approved by the Board.

16.5 The Standing Orders of the Trust as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Trust. Any such alteration should be recorded in

committee minutes.

16.6 A member of a committee or sub-committee, including co-opted members, shall not disclose a matter dealt with by, or brought before, the committee without its permission until the committee shall have reported to the Trust or shall otherwise have concluded action on that matter.

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

16.8 Where there is more than one Non-Executive Director on a committee the Chairman of the Trust Board shall determine the chairman of the committee. Every committee shall, unless its terms of reference provide otherwise, at its first meeting, before proceeding to any other business, elect a Vice-Chairman for the year.

16.9 The Head of Corporate Governance shall summon any committee to meet on the request of its Chairman, or the Trust Board, or on the written request of at least one third of the members of the committee.

17. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS

17.1 The Trust Board may make arrangements for the exercise, on its behalf, of any of its functions by a committee, sub-committee or joint committee appointed by virtue of Paragraph 16.1 or 16.2 or by a senior employee of the Trust, in each case subject to such restrictions and conditions as the Trust Board thinks fit.

17.2 The Trust shall approve corporate governance arrangements (see Appendix B) which will oversee the exercise of the functions of the Board and ensure all activities are conducted legally and in accordance with approved Standing Orders. Such duties may be assigned to an existing Executive Director or a non-Director appointment may be made. The Head of Corporate Governance will report to the Chairman on matters pertaining to the Board, and to the Chief Executive in respect of executive functions.

III. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

(Constitution paragraph 47)

18. CUSTODY OF SEAL

18.1 The common seal of the Trust shall be kept by the Chairman in a safe place.

19. SEALING OF DOCUMENTS

19.1 The seal of the Trust shall not be fixed to any document unless the sealing has been authorised by a resolution of the Trust Board or where the Board has delegated its powers in that behalf to an Executive Director.

19.2 The seal shall be attested by two authorised Directors, one of whom must be a Non-Executive Director and the other must be an Executive Director.

19.3 The seal shall be affixed on documents as advised by the Trust's legal advisers and provides additional legal protection under certain circumstances. Usually this will include:

- * conveyancing estate for sale, transfer, or purchase
- * licences executed or signed as a deed
- * leases for three years or more
- * appointments under major building contracts such as architects, design consultants, clerk of works, and main contractors

20. REGISTER OF SEALING

20.1 An entry of every sealing of a document shall be made, consecutively numbered in a register to be maintained for this purpose by the Head of Corporate Governance and signed by the persons who have attested the seal and such Register shall be kept by the Head of Corporate Governance in a safe place.

20.2 A summary of entries in the Register of Sealing shall be submitted to the Trust Board at its next meeting.

IV. APPOINTMENT OF DIRECTORS

21. [not used]

22. DIRECTORS

(Constitution paragraph 31)

22.1 A Board nominations committee (Ad-hoc committee) shall be established for the appointment of the Chief Executive and will be convened with terms of reference as determined by the Chairman and Non-Executive Directors. The appointment of the Chief Executive requires the approval of the Council of Governors.

22.2 For the appointment of Executive Directors the Chief Executive and Chairman shall determine the appropriate committee membership and process.

22.3 Executive Directors apart from the Chief Executive and the Director of Finance may be removed from their Directorship of the Trust without being removed from their post of employment if, in the view of the Chairman, Non-Executive Directors and the Chief Executive, it is not in the interests of the Trust for them to continue as a Director.

22.4 The Chairman and Non-Executive Directors are appointed for a fixed period of time, the details of which shall be held in a register by the Head of Corporate Governance. Renewal or appointment of new Non-Executive Directors shall be effected in accordance with the Trust's Constitution.

V. APPOINTMENT OF STAFF

23. CANVASSING OF, AND RECOMMENDATION BY, DIRECTORS

23.1 Canvassing of Directors of the Trust or of any committee of the Trust, directly or indirectly, for any appointment under the Trust shall disqualify the candidate for such appointment. The purport of this paragraph of this Standing Order shall be included in any form of application or otherwise brought to the attention of the candidates.

23.2 An Executive or Non-Executive Director of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for an appointment. However Paragraphs 23.1 and 23.2 shall not preclude a Director from giving a written testimonial of a candidate's

ability, experience or character for submission to the Trust.

24. RELATIVES OF DIRECTORS OR SENIOR EMPLOYEES

24.1 Candidates for any appointment under the Trust shall, when making application, disclose, in writing to the Trust, any relationship to any Director or the holder of any senior office under the Trust, of which they are aware. Deliberate failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.

24.2 Every Director of the Trust shall disclose to the Trust at the earliest possible time any relationship between himself/herself and a candidate of whose candidature he is aware. It shall be the duty of the Chief Executive to report to the Board any such disclosure made in respect of senior management appointments.

24.3 Relationships to which this order applies are these:

- a. where two people may not be married but are living together as spouses or partners.
- b. where either of the two persons concerned or the spouse of either of them is the son or daughter or grandson or granddaughter or brother or sister or nephew or niece of the person concerned or of the spouse of that other person.

VIII. MANAGEMENT OF RISK

25. MANAGEMENT OF RISK ARRANGEMENTS

25.1 The Chief Executive shall ensure that there are proper procedures for the identification of risk and the assessment of the likelihood and impact of such risks.

25.2 Identified risks shall be recorded in Departmental risk registers across the Trust and shall include measures to minimise risks and actions to be taken to address them should they arise.

25.3 Principal risks shall be assessed and agreed by the Board.

25.4 The Board shall approve an Assurance Framework to assess and manage the principal risks associated with achieving the organisation's objectives. The Assurance Framework shall incorporate measures to ensure that the Trust complies with its Authorisation and allows the Board to agree the annual Statement of Internal Control.

25.5 Each principal risk has an identified local risk manager who is responsible for managing and reporting on the overall risk. The identified local risk manager is normally an Executive Director.

25.6 Assurance Committees will assure the Trust Board that each principal risk is being monitored, gaps in controls identified, and processes put into place to minimise the risk to the organisation. The designated Assurance Committees of the Trust Board are: the Audit Committee, the Clinical Governance Committee, the Finance Committee, and the Joint Board of Directors.

25.7 It is the responsibility of the Assurance Committees to report to the Trust Board, on a quarterly basis any new risks identified, or gaps in assurance/control, as well as positive assurances. If a significant risk to the Trust's service delivery or gap in control/assurance is identified then this must be reported immediately via the Executive Directors.

25.8 The Board shall approve, and maintain up to date, a Risk Management Strategy which shall address risks associated with: clinical standards and safety, service performance, finance, physical environment, employment, and the work undertaken for the Trust by third parties.

25.9 The Audit Committee will monitor the overall Assurance Framework process.

VIX. MISCELLANEOUS

26. SUSPENSION OF STANDING ORDERS

26.1 Except where this would contravene any statutory provision or any direction made by the Secretary of State any one or more of the Standing Orders may be suspended at any meeting, provided that at least two thirds of the appointed Directors of the Trust are present and that a majority of those present vote in favour of suspension and that the majority of non-Executives present also vote in favour of suspension.

27. VARIATION AND AMENDMENT OF STANDING ORDERS

27.1 These Standing Orders shall be amended only if;

- a. a notice of motion under Paragraph 7 has been given; and
- b. a majority of the Trust's appointed Directors present and choosing to vote on the matter are in favour of amendment; and

- c. a majority of the Trust's non-Executives present are in favour of the amendment; and
- d. at least two thirds of the Trust's appointed Directors are present; and
- e. the variations proposed do not contravene a statutory provision or direction made by the Secretary of State.

28. DISTRIBUTION OF STANDING ORDERS

28.1 The Head of Corporate Governance shall ensure that a copy of the Standing Orders are provided to each Director of the Trust and appropriate other employees and immediately following any time when revised Standing Orders are approved by the Board. Receipt of Standing Orders and amendments should be duly signed for to confirm they have been read and understood.

28.2 A copy of the Standing Orders and SFIs shall be available on the Trust's web site.

29. SIGNATURE OF DOCUMENTS

29.1 Where any document will be a necessary step in legal proceedings on behalf of the Trust, it shall, unless any enactment otherwise requires or authorises, or if the Trust shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or by any other officer duly authorised by him for this purpose. Original signed contracts will be held by the Estates Department for building contracts. The Procurement Department will maintain a database for all other contracts including details of where the original documentation is held, who is responsible for its maintenance and the renewal date.

30. STANDING FINANCIAL INSTRUCTIONS

30.1 Standing Financial Instructions adopted by the Trust shall have effect as if incorporated in these Standing Orders and the Constitution.

31. [NOT USED]

32. URGENT DECISIONS

32.1 Where an urgent decision is required between Board meetings in

respect of a matter which would normally be considered by the Board, the Chief Executive will be empowered to take action on behalf of the Trust, provided that he consults with the Chairman or in his absence the Vice Chairman and such other Directors as he is able to contact before taking action.

32.2 In the absence of the Chief Executive the Chairman may act in the capacity of Chief Executive for the purpose of actioning an urgent matter or the Chairman may appoint an acting Chief Executive for a period of time.

32.3 Where a decision normally reserved to the Board is taken by the Chairman or Chief Executive due to urgency, such decision shall be reported to the Trust Board at its first meeting afterwards.

33. PROVISION OF DOCUMENTATION

33.1 A Director shall be entitled to receive upon request a copy of any document to which the Trust is a party subject to constraints of confidentiality and any personal interests that a Director may have in such documentation.

34. INTERPRETATION OF STANDING ORDERS

34.1 The Chairman of the Trust shall be the final authority in the interpretation of Standing Orders, on which he may be advised by the Chief Executive, Director of Finance and Head of Corporate Governance, or in the case of Standing Financial Instructions by the Director of Finance.

ANNEX 9 – ADDITIONAL PROVISIONS - DIRECTORS – DISQUALIFICATION

(See Paragraph 33)

The following may not be appointed or continue as a director:

1. A person who is the subject of a sexual offences order under the Sexual Offences Act 2003 or any subsequent legislation.
2. A person who is disqualified from being a company director under the law of England and/or Wales.
3. A person who is a governor of the Trust, or a governor, director, chairman or chief executive of another NHS Foundation trust or NHS trust.
4. A person who is incapable by reason of mental disorder or illness or injury of managing his property and affairs.
5. A person who occupies the same household as an existing director of the Trust or a governor.