

COUNTY DURHAM AND DARLINGTON NHS FOUNDATION TRUST

CONSTITUTION

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1.0 Interpretation and definitions

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

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

the 2003 Act is the Health and Social Care (Community Health and Standards) Act 2003.

the 2006 Act is the National Health Service Act 2006.

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

constitution means this constitution and all annexes to it.

Monitor is the body corporate known as Monitor as provided by Section 61 of the 2012 Act.

terms of authorisation are the terms of authorisation issued by Monitor under Section 6 of the 2003 Act.

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

the **Accounting Officer** for the Trust is the Chief Executive of the Trust.

2.0 Name

The name of the foundation trust is County Durham and Darlington NHS Foundation Trust (the Trust).

3.0 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

3.3.3 the promotion and protection of public health.

3.4 The Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4.0 Powers

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

5.0 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
 - 5.2.2 a staff constituency
- 5.2 The Trust will have membership regulations.

5.3 Membership and Liability

The Trust is a legal person and, as such, will be liable for its debts and liabilities. The Trust can, in no way, transfer any of its debts or liabilities onto its members.

6.0. Application for membership

An individual who is eligible to become a member of the Trust may do so on application to the Trust. There will be no charge for membership.

7.0 Public Constituency

- 7.1 The Public Constituency is divided into nine classes. An individual who lives in an area specified in Annex 1 as a class of the public constituency may become or continue as a member of the Trust.
- 7.2 Those individuals who live in an area specified as a class of the public constituency are referred to collectively as the Public Constituency.
- 7.3 The minimum number of members in each class of the Public Constituency is specified in Annex 1.
- 7.4 A class of the Public Constituency may not be sub divided.

8.0 Staff Constituency

- 8.1 An individual who is employed by the Trust and / or a wholly owned subsidiary organisation, under a contract of employment may become or continue as a member of the Trust provided:
 - 8.1.1 he is employed by the Trust and / or a wholly owned subsidiary organisation,

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 and / or a wholly owned subsidiary organisation, under a contract of employment for at least 12 months.

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

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

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

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

8.6 Automatic membership by default – staff

An individual who is:

8.6.1 eligible to become a member of the Staff Constituency under paragraph 8.1 above, and

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

8.7 Membership by Opt In – staff

Individuals who exercise functions for the purposes of the Trust other than under a contract of employment with the Trust (as outlined in paragraph 8.2 above) will be given the opportunity to be part of the Staff Constituency. They are not automatically members by default but become a member of one of the classes of the Staff Constituency by an opt in process.

9.0 Patients' Constituency

The Trust has no Patients' Constituency.

10.0 Restriction on membership

10.1 An individual who is a member of a constituency, or of a class within a constituency, may not while membership of that constituency or class continues, be a member of any other constituency or class.

- 10.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.
- 10.3 A member must be an individual. The Trust will not accept corporate bodies for membership.
- 10.4 An individual who has caused harm or causes harm to a NHS staff member, non-executive director, governor, patient, carer or registered volunteer whether that be verbal or physical assault, violence or serious harassment or has been issued with a personal safety and security warning by the Trust shall not become or continue to be a member of the Trust.
- 10.5 An individual who has been identified as a vexatious complainant against the Trust may not become or continue to be a member.
- 10.6 An individual who does not uphold the values of the Trust may not become or continue as a member.
- 10.7 Members must be at least 14 years of age at the date of application to become a member.

11.0 Annual Members' Meeting

- 11.1 The Trust shall hold an annual meeting of its members ("Annual General Meeting"). The Annual General Meeting shall be open to members of the public.

12.0. Council of Governors– composition and role

- 12.1 The Council of Governors shall fulfil the statutory duties set out in the NHS Act 2006 and the Health and Social Care Act (HSCA) 2012. These shall include the general duties of the Council of Governors set out in the HSCA 2012 to hold the Non-Executive Directors, individually and collectively, to account for the performance of the Board of Directors and to represent the interests of the members of the Trust as a whole and the interests of the public.
- 12.2 The Trust is to have a Council of Governors, which shall comprise both elected and appointed governors.
- 12.3 The aggregate number of governors elected from the Public Constituency is to be more than half the total membership of the Council of Governors.
- 12.4 The composition of the Council of Governors is specified in Annex 3.
- 12.5 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 3.
- 12.6 The Council of Governors may appoint advisors to assist them. The advisors may not be designated as governors and may not be given voting rights. The appointment of advisors to the Council of Governors must be approved by the Board of Directors.

13.0 Council of Governors– election of governors

- 13.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Rules for Elections, as may be varied from time to time.
- 13.2 The Model Rules for Elections, as may be varied from time to time, form part of this constitution and are attached at Annex 4.
- 13.3 A variation of the Model Rules, other than a unilateral variation by the Trust, shall not constitute a variation of the terms of this constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules.
- 13.4 Elections for the Council of Governors shall be conducted in accordance with the Model Election Rules at Annex 4 to the Constitution.
- 13.5 An election, if contested, shall be by secret ballot.
- 13.6 A Governor vacancy may be filled within six months of election by appointing the runner up, if there is one. If there is no runner up, or if the vacancy occurs outside this period, the vacancy will be filled at a by-election unless an annual governor election is due to take place within six months of the vacancy arising, in which case the vacancy will be filled at that annual election.
- 13.7 Steps may be taken to encourage members to stand for election in the event that there are insufficient nominations in order to seek to ensure that members have a choice of candidates at an election. Steps may include writing to members of the relevant constituency and engaging with people who may be interested in standing as a governor. Elections would be held when further nominations had been received.

14.0 Council of Governors- tenure

- 14.1 An elected governor may hold office for a period of up to 3 years.
- 14.2 An elected governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.
- 14.3 An elected governor shall be eligible for re-election at the end of his term.
- 14.4 An elected governor may hold office for a maximum of nine years, which need not be consecutive.
- 14.5 Following initial governor elections, in a class of a constituency where there is more than one governor, the sitting governor who was elected with the highest number of votes will be deemed to have been elected for three years. The sitting governor with the second highest number of votes in the initial election will be deemed to have been elected for two years. The sitting governor who was elected with the next highest number of votes will be deemed to have been elected for one year.
- 14.6 In an election where there is more than one vacancy in a class of a constituency, the candidate elected with the highest number of votes will be elected for the longest

period, the second candidate with the second highest number of votes will be elected for the second longest period, and so on.

- 14.7 In the event of more than one candidate being elected unopposed or successful candidates having tied votes, lots will be cast to determine the order of election.

15.0 Council of Governors– disqualification and removal

- 15.1 The following may not become or continue as a member of the Council of Governors:
- 15.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
 - 15.1.2 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;
 - 15.1.3 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
 - 15.1.4 in the case of a public or staff governor, when he/she ceases to be a member of that Constituency
 - 15.1.5 In the case of an appointed governor, when he/she resigns from the organisation he/she represents or when the partnership organisation withdraws their sponsorship.
 - 15.1.6 a person who is a chairman, non executive or executive director of the Trust or a person who is a chairman, non-executive or executive director of another NHS Trust or NHS Foundation Trust.
 - 15.1.7 a person who is a medical practitioner and who has been removed from the register of medical practitioners held by the General Medical Council in accordance with the Medical Act 1983, or has been suspended from that register, and not subsequently had his name returned to that register.
 - 15.1.8 a person whose tenure of office as a chairman or director of a health service body has been terminated on the grounds that his appointment is not in the interests of public service.
 - 15.1.9 a person whose name has been added to and not removed from a list prepared under the Sexual Offenders Act 1997.
 - 15.1.10 Governors must be at least 16 years of age at the date they are nominated for election or appointment.
- 15.2 A governor may resign from office at any time during his or her term by giving notice in writing to the Trust Chairman.
- 15.3 A governor may be removed from office by resolution of the Council of Governors in the following circumstances:

15.3.1 any of the reasons outlined in paragraph 15.1 above; or

15.3.2 if he/she consistently and unjustifiably fails to attend the meetings of the Council of Governors, has a conflict of interest that makes them incompatible with the values of the Trust or fails to discharge his or her other responsibilities as a governor.

16.0 Council of Governors– meetings of governors

16.1 The Chairman of the Trust (i.e. the Chairman of the Board of Directors, appointed in accordance with the provisions of paragraph 23.1 below) or, in his absence the Vice Chairman of the Trust, (appointed in accordance with the provisions of paragraph 24.0 below), shall preside at meetings of the Council of Governors. The Chairman of the Trust may not also be a Governor of the Trust.

16.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

17.0 Council of Governors– standing orders

The Standing Orders for the Practice and Procedure of the Council of Governors, as may be varied from time to time, are attached at Annex 5.

18.0 Council of Governors- conflicts of interest of governors

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

19.0 Council of Governors– travel expenses

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

20.0 Board of Directors – composition

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

20.2 The Board of Directors is to comprise:

20.2.1 a non-executive Chairman

20.2.2 five other non-executive directors; and

20.2.3 five executive directors.

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

- 20.4 The Chief Executive shall be the Accounting Officer.
- 20.5 One of the executive directors shall be the finance director.
- 20.6 One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).
- 20.7 One of the executive directors is to be a registered nurse or a registered midwife.

21.0 Board of Directors – general duty

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

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

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

- 20.1 he is a member of the Public Constituency, or
- 20.2 where any of the Trust's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university, and
- 20.3 he is not disqualified by virtue of paragraph 23 below.

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

- 23.1 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.
- 23.2 Removal of the chairman or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

24.0 Board of Directors – appointment of Vice Chairman

The Council of Governors, at a general meeting of the Council of Governors, shall appoint one of the non-executive directors as a Vice Chairman of the Trust for such period as they may specify (to not exceed the remainder of his term as a Non-Executive Director).

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

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

26.0 Board of Directors – disqualification

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

- 26.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
- 26.2 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it,
- 26.3 a person who is disqualified under the Company Directors Disqualification Act 1986.
- 26.4 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.
- 26.5 a person who within the preceding two years has been dismissed other than for redundancy from paid employment with a health service body.
- 26.6 a person who is a medical practitioner and who has been removed from the register of medical practitioners held by the General Medical Council in accordance with the Medical Act 1983, or has been suspended from that register, and not subsequently had his name returned to that register.
- 26.7 a person whose tenure of office as a chairman or member or director of a health service body has been terminated on the grounds that his appointment is not in the interests of public service.

27.0 Board of Directors – meetings

- 27.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.
- 27.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors. It may be necessary to redact some information, for example, for data protection or commercial reasons. Governors should respect the confidentiality of these documents.

28.0 Board of Directors – standing orders

The Standing Orders for the Practice and Procedure of the Board of Directors, as may be varied from time to time, are attached at Annex 6.

29.0 Board of Directors - conflicts of interest of directors

- 29.1 The duties that a director of the Trust has by virtue of being a director include in particular:
 - 29.1.1 A duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or possible may conflict) with the interests of the Trust.

- 29.1.2 A duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.
- 29.2 The duty referred to in sub-paragraph 29.1.1.is not infringed if:
- 29.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or
- 29.2.2 The matter has been authorised in accordance with the constitution.
- 29.3 The duty referred to in sub-paragraph 29.1.2.is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- 29.4 In sub-paragraph 29.1.2, “third party” means a person other than:
- 29.4.1 The Trust, or
- 29.4.2 A person acting on its behalf.
- 29.5 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.
- 29.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- 29.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 29.8 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.
- 29.9 A director need not declare an interest:
- 29.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 29.9.2 If, or to the extent that, the directors are already aware of it;
- 29.9.3 If, or to the extent that, it concerns terms of the director’s appointment that have been or are to be considered:
- 29.9.3.1 By a meeting of the Board of Directors, or
- 29.9.3.2 By a committee of the directors appointed for the purpose under the constitution.

30.0 Board of Directors – remuneration and terms of office

- 30.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office,

of the Chairman and the other non-executive directors.

- 30.2 The Trust shall establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other executive directors.

31.0 Registers

- 31.1 The Trust shall have:

30.1.1 a register of members showing, in respect of each member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs;

30.1.2 a register of members of the Council of Governors;

30.1.3 a register of interests of governors;

30.1.4 a register of directors; and

30.1.5 a register of interests of the directors.

32.0 Admission to and removal from the registers

- 32.1 The Trust will admit individuals to the register of members upon acknowledging the receipt of a valid application for membership.

- 32.2 The Trust will remove members from the register of members upon receipt of a valid notice of resignation or upon the disqualification of a member by virtue of paragraph 10.

33.0 Registers – inspection and copies

- 33.1 The Trust shall make the registers specified in paragraph 31 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

- 33.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the Trust, if the member so requests.

- 33.3 So far as the registers are required to be made available:

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

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

- 33.4 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.

34.0 Documents available for public inspection

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

34.1.1 a copy of the current constitution;

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

34.1.3 a copy of the latest annual report;

34.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:

34.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act.

34.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.

34.2.3 a copy of any information published under section 65D (appointment of special administrator) of the 2006 Act.

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

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

34.2.6 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.

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

34.2.8 a copy of any final report published under section 65I (administrator's final report) of the 2006 Act.

34.2.9 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.

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

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

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

35.0 Auditor

35.1 The Trust shall have an auditor.

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

36.0 Audit committee

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

37.0 Accounts

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

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

37.2 The accounts are to be audited by the Trust's auditor.

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

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

38.0 Annual report and forward plans and non-NHS work

38.1 The Trust shall prepare an Annual Report and send it to Monitor.

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

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

38.4 In preparing the document, the directors shall have regard to the views of the Council of Governors.

38.5 Each forward plan must include information about –

38.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and

38.5.2 the income it expects to receive from doing so.

38.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 38.5.1 the Council of Governors must –

38.6.1 determine whether it is satisfied that the carrying on of the activity will not to any

significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions, and

38.6.2 notify the directors of the trust of its determination.

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

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

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

39.1.1 the annual accounts

39.1.2 any report of the auditor on them

39.1.3 the annual report.

39.2 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.

39.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 39.1 with the Annual Members' Meeting.

40.0 Instruments

40.1 The Trust shall have a seal which will be kept by the Trust Secretary.

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

40.3 An entry of every sealing will be made and numbered consecutively in a register of sealings. A report of all sealings will be made to the Board of Directors at least quarterly. The report will contain a description of the document sealed and the date the seal was affixed.

41.0 Indemnity

Members of the Board of Directors who act honestly and in good faith will not have to meet out of their own personal resources any personal civil liability which is incurred in the execution or purported execution of their functions as a director of the Trust (except where they have acted recklessly). Any costs arising in this manner will be met by the Trust.

42.0 Dispute Resolution

The Trust will establish appropriate dispute resolution procedures with staff, members and contractors. A dispute resolution procedure is in place for any dispute between the Board and the Council of Governors, set out in Annex 7.

43.0 Amending the Constitution

43.1 The Trust may make amendments of its constitution only if –

43.1.1 More than half of the members of the Council of Governors of the Trust voting approve the amendments, and

43.1.2 More than half of the members of the Board of Directors of the Trust voting approve the amendments.

43.2 Amendments made under paragraph 43.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the constitution would, as a result of the amendment not accord with schedule 7 of the 2006 Act.

43.3 Where an amendment is made to the constitution in relation the powers of duties of the Council of Governors has as a part of the trust)-

43.3.1 At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and

43.3.1 The Trust must give the members an opportunity to vote on whether they approve the amendment.

43.4 If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.

43.4 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 result of amendments, accords with Schedule 7 of the 2006 Act.

44.0 Mergers etc. significant transactions

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

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

44.3 The constitution does not contain any descriptions of the term "Significant transaction" for the purposes of section 51A of the 2006 Act (Significant Transactions).

ANNEX 1 – THE PUBLIC CONSTITUENCY

(Paragraphs 7.1 and 7.3)

The Public Constituency is divided into the following constituency areas, based upon local authority areas.

- Chester-le-Street (200)
- Darlington (300)
- Derwentside (300)
- Durham City (300)
- Easington (50)
- Gateshead, South Tyneside, Sunderland and beyond (50)
- Sedgefield (300)
- Hambleton, Richmondshire, Tees Valley and beyond (50)
- Wear Valley and Teesdale (300)

The minimum number of members for each constituency area is specified in brackets

ANNEX 2 – THE STAFF CONSTITUENCY

(Paragraphs 8.4 and 8.5)

The Staff Constituency is divided into six classes. The minimum number of members for each class is listed in brackets.

- **Medical** including consultants, staff grades, associate specialists, senior house officers and foundation doctors (100)
- **Nursing and midwifery** including all grades of nurses and midwives, healthcare assistants and team assistants (500)
- **Allied health professionals, professional and technical, and pharmacists** including all grades of allied health professional staff, laboratory technicians, pharmacists, audiology, physiological measurement technicians and engineers (100)
- **Ancillary** including catering, porters, domestics, sterile services department, laundry, craftsmen, labourers and telephonists (100)
- **Administrative & clerical, managers and others** including associate directors, heads of department, clinical service managers, secretaries and clerical staff (100)
- **Community based medical, nursing, dentists, allied health professionals, professional and technical and pharmacists** (350)

ANNEX 3 – COMPOSITION OF COUNCIL OF GOVERNORS

(Paragraphs 12.3 and 12.4)

The Council of Governors will be composed of 37 members.

ELECTED GOVERNORS

1. The Public Constituency will have governor representatives elected from the following constituency areas as follows:

• Chester le Street	2
• Durham City	3
• Derwentside	2
• Darlington	3
• Easington	2
• Sedgefield	3
• Wear Valley and Teesdale	3
• Gateshead, South Tyneside, Sunderland and beyond	1
• Hambleton, Richmondshire, Tees Valley and beyond	1
TOTAL	20 Governors

2. The staff constituency will have governor representatives elected from 6 classes as follows:

• Medical	1
• Nursing and Midwifery	3
• Allied health professionals, professional and technical, and pharmacists	1
• Ancillary	1
• Administrative and clerical, managers and others	1
• Community based medical, nursing, dentists, allied health professionals, professional and technical and pharmacists	2
TOTAL	9 Governors

APPOINTED GOVERNORS

3. Governors will be appointed from the following organisations and partnership organisations as follows:

- A representative appointed by Tees Esk & Wear Valleys NHS Trust (mental health) 1
- A representative appointed by North East Ambulance Service 1
- A representative of the local universities appointed by Universities of the North East * 1
- A representative appointed by Darlington Borough Council 1
- A representative appointed by Durham County Council 1
- A representative appointed by Healthwatch Durham 1
- A representative appointed by Healthwatch Darlington 1
- A representative appointed by North East and North Cumbria ICB 1

TOTAL

8 Governors

* Although the Trust is not a teaching Trust, local universities are important partners as the Trust works with them to help train and develop healthcare professionals.

ANNEX 4 –THE MODEL RULES FOR ELECTIONS

(Paragraphs 13.2 and 13.4)

Model Election Rules

PART 1: INTERPRETATION

1. Interpretation

PART 2: TIMETABLE FOR ELECTION

2. Timetable
3. Computation of time

PART 3: RETURNING OFFICER

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

PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

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

PART 5: CONTESTED ELECTIONS

19. Poll to be taken by ballot
20. The ballot paper
21. The declaration of identity (public and patient constituencies)

Action to be taken before the poll

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

The poll

27. Eligibility to vote

28. Voting by persons who require assistance
29. Spoilt ballot papers and spoilt text message votes
30. Lost voting information
31. Issue of replacement voting information
32. ID declaration form for replacement ballot papers (public and patient constituencies)
33. Procedure for remote voting by internet
34. Procedure for remote voting by telephone
35. Procedure for remote voting by text message

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

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

PART 6: COUNTING THE VOTES

- STV41. Interpretation of Part 6
42. Arrangements for counting of the votes
43. The count
- STV44. Rejected ballot papers and rejected text voting records
- FPP44. Rejected ballot papers and rejected text voting records
- STV45. First stage
- STV46. The quota
- STV47. Transfer of votes
- STV48. Supplementary provisions on transfer
- STV49. Exclusion of candidates
- STV50. Filling of last vacancies
- STV51. Order of election of candidates
- FPP51. Equality of votes

PART 7: FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

- FPP52. Declaration of result for contested elections
- STV52. Declaration of result for contested elections
53. Declaration of result for uncontested elections

PART 8: DISPOSAL OF DOCUMENTS

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

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

- FPP59. Countermand or abandonment of poll on death of candidate
- STV59. Countermand or abandonment of poll on death of candidate

PART 10: ELECTION EXPENSES AND PUBLICITY

Expenses

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

Publicity

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

PART 11: QUESTIONING ELECTIONS AND IRREGULARITIES

- 66. Application to question an election

PART 12: MISCELLANEOUS

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

1. Interpretation

1.1 In these rules, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Timetable

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

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

3. Computation of time

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

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

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

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

4. Returning Officer

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

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

5. Staff

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

6. Expenditure

6.1 The corporation is to pay the returning officer:

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

7. Duty of co-operation

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

8. Notice of election

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

9. Nomination of candidates

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

9.2 The returning officer:

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

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

10. Candidate's particulars

10.1 The nomination form must state the candidate's:

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

11. Declaration of interests

11.1 The nomination form must state:

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

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

12. Declaration of eligibility

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

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

13. Signature of candidate

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

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

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

14. Decisions as to the validity of nomination

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

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

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

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

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

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

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

15. Publication of statement of candidates

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

15.2 The statement must show:

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

- (b) the declared interests of each candidate standing,

as given in their nomination form.

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

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

16. Inspection of statement of nominated candidates and nomination forms

16.1 The corporation is to make the statement of the candidates and the nomination

forms supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.

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

17. Withdrawal of candidates

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

18. Method of election

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

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

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

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

19. Poll to be taken by ballot

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

20. The ballot paper

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

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

20.3 Each ballot paper must have a unique identifier.

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

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

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

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

("declaration of identity")

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

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

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

Action to be taken before the poll

22. List of eligible voters

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

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

(a) a postal address; and,

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

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

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

23. Notice of poll

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

(a) the name of the corporation,

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

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

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

(e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,

(f) the methods of polling by which votes may be cast at the election by voters in a constituency or class within a constituency, as determined by the corporation in accordance with rule 19.3,

(g) the address for return of the ballot papers,

(h) the uniform resource locator (url) where, if internet voting is a method of polling, the polling website is located;

(i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located,

(j) the telephone number or telephone short code where, if text message

- voting is a method of polling, the text message voting facility is located,
- (k) the date and time of the close of the poll,
 - (l) the address and final dates for applications for replacement voting information, and
 - (m) the contact details of the returning officer.

24. Issue of voting information by returning officer

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

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

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

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

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

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

for the purposes of the poll.

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

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

25. Ballot paper envelope and covering envelope

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

25.2 The covering envelope is to have:

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

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

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

26. E-voting systems

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

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

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

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

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

- (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
 - (iv) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (v) instructions on how to vote and how to make a declaration of identity,
 - (vi) the date and time of the close of the poll, and
 - (vii) the contact details of the returning officer;
- (c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of-
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (iii) the candidate or candidates for whom the voter has voted; and
 - (iv) the date and time of the voter's vote,
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this; and
- (f) prevent any voter from voting after the close of poll.

26.5

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

- (a) require a voter to
 - (i) enter his or her voter ID number in order to be able to cast his or her vote; and
 - (ii) where the election is for a public or patient constituency, make a declaration of identity;
- (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,

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

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

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

The poll

27. Eligibility to vote

27.1 An individual who becomes a member of the corporation on or before the

closing date for the receipt of nominations by candidates for the election, is eligible to vote in that election.

28. Voting by persons who require assistance

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

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

29. Spoilt ballot papers and spoilt text message votes

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

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

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

(a) is satisfied as to the voter’s identity; and

(b) has ensured that the completed ID declaration form, if required, has not been returned.

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

(a) the name of the voter, and

(b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and

(c) the details of the unique identifier of the replacement ballot paper.

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

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

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

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

(a) the name of the voter, and

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

30. Lost voting information

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

30.2 The returning officer may not issue replacement voting information in respect of lost voting information unless he or she:

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

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

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

31. Issue of replacement voting information

31.1 If a person applies for replacement voting information under rule 29 or 30 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 29.3 or 30.2, he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.

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

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

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

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

33. Procedure for remote voting by internet

- 33.1 To cast his or her vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.
- 33.2 When prompted to do so, the voter will need to enter his or her voter ID number.
- 33.3 If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election in which the voter is eligible to vote.
- 33.4 To cast his or her vote, the voter will need to key in a mark on the screen opposite the particulars of the candidate or candidates for whom he or she wishes to cast his or her vote.
- 33.5 The voter will not be able to access the internet voting system for an election once his or her vote at that election has been cast.

34. Voting procedure for remote voting by telephone

- 34.1 To cast his or her vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.
- 34.2 When prompted to do so, the voter will need to enter his or her voter ID number using the keypad.
- 34.3 If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.
- 34.4 When prompted to do so the voter may then cast his or her vote by keying in the numerical voting code of the candidate or candidates, for whom he or she wishes to vote.
- 34.5 The voter will not be able to access the telephone voting facility for an election once his or her vote at that election has been cast.

35. Voting procedure for remote voting by text message

- 35.1 To cast his or her vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.
- 35.2 The text message sent by the voter must contain his or her voter ID number and the numerical voting code for the candidate or candidates, for whom he or she wishes to vote.
- 35.3 The text message sent by the voter will need to be structured in accordance with the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

36. Receipt of voting documents

- 36.1 Where the returning officer receives:
- (a) a covering envelope, or
 - (b) any other envelope containing an ID declaration form if required, a ballot paper envelope, or a ballot paper,
- before the close of the poll, that officer is to open it as soon as is practicable; and rules 37 and 38 are to apply.
- 36.2 The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 37 and 38, but must make arrangements to ensure that no person obtains or communicates information as to:
- (a) the candidate for whom a voter has voted, or
 - (b) the unique identifier on a ballot paper.
- 36.3 The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

37. Validity of votes

- 37.1 A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.
- 37.2 Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:
- (a) put the ID declaration form if required in a separate packet, and
 - (b) put the ballot paper aside for counting after the close of the poll.
- 37.3 Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:
- (a) mark the ballot paper “disqualified”,
 - (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
 - (c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and
 - (d) place the document or documents in a separate packet.
- 37.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.

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

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

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

38. Declaration of identity but no ballot paper (public and patient constituency)¹

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

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

39. De-duplication of votes

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

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

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

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

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

¹ It should not be possible, technically, to make a declaration of identity electronically without also submitting a vote.

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

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

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

40. Sealing of packets

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

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

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

STV41. Interpretation of Part 6

STV41.1 In Part 6 of these rules:

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

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

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

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

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

“non-transferable vote” means a ballot document:

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

or

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

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

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

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

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

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

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

documents from the candidate who has the surplus,
“*stage of the count*” means:

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

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

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

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

42. Arrangements for counting of the votes

- 42.1 The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.
- 42.2 The returning officer may make arrangements for any votes to be counted using vote counting software where:
 - (a) the board of directors and the council of governors of the corporation have approved:
 - (i) the use of such software for the purpose of counting votes in the relevant election, and
 - (ii) a policy governing the use of such software, and
 - (b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. The count

- 43.1 The returning officer is to:
 - (a) count and record the number of:
 - (iii) ballot papers that have been returned; and
 - (iv) the number of internet voting records, telephone voting records and/or text voting records that have been created, and
 - (b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(ii) where vote counting software is being used.
- 43.2 The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains

or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.

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

STV44. Rejected ballot papers and rejected text voting records

STV44.1 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.

STV44.2 The returning officer is to endorse the word “rejected” on any ballot paper which under this rule is not to be counted.

STV44.3 Any text voting record:

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

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

STV44.4 The returning officer is to endorse the word “rejected” on any text voting record which under this rule is not to be counted.

STV44.5 The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (d) of rule STV44.1 and the number of text voting records rejected by him or her under each of the sub-paragraphs (a) to (c) of rule STV44.3.

FPP44. Rejected ballot papers and rejected text voting records

FPP44.1 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 rules FPP44.2 and FPP44.3, be rejected and not counted.

FPP44.2 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.

FPP44.3 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.

FPP44.4 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 rules FPP44.2 and FPP 44.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

FPP44.5 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.

FPP44.6 Any text voting record:

- (a) on which votes are given for more candidates than the voter is entitled to vote,
- (b) on which anything is written or marked by which the voter can be identified except the voter ID number, or
- (c) which is unmarked or rejected because of uncertainty,

shall, subject to rules FPP44.7 and FPP44.8, be rejected and not counted.

FPP44.7 Where the voter is entitled to vote for more than one candidate, a text voting record is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

FPP44.8 A text voting record on which a vote is marked:

- (a) otherwise than by means of a clear mark,
- (b) 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 text voting record is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

FPP44.9 The returning officer is to:

- (a) endorse the word “rejected” on any text voting record which under this rule is not to be counted, and
- (b) in the case of a text voting record on which any vote is counted under rules FPP44.7 and FPP 44.8, endorse the words “rejected in part” on the text voting record and indicate which vote or votes have been counted.

FPP44.10 The returning officer is to draw up a statement showing the number of rejected text voting records under the following headings:

- (a) voting for more candidates than the voter is entitled to,
- (b) writing or mark by which voter could be identified, and
- (c) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of text voting records rejected in part.

STV45. First stage

STV45.1 The returning officer is to sort the ballot documents into parcels according to the candidates for whom the first preference votes are given.

STV45.2 The returning officer is to then count the number of first preference votes given on ballot documents for each candidate, and is to record those numbers.

STV45.3 The returning officer is to also ascertain and record the number of valid ballot

documents.

STV46. The quota

STV46.1 The returning officer is to divide the number of valid ballot documents by a number exceeding by one the number of members to be elected.

STV46.2 The result, increased by one, of the division under rule STV46.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).

STV46.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules STV47.1 to STV47.3 has been complied with.

STV47. Transfer of votes

STV47.1 Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot documents on which first preference votes are given for that candidate into sub- parcels so that they are grouped:

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

STV47.2 The returning officer is to count the number of ballot documents in each parcel referred to in rule STV47.1.

STV47.3 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.1(a) to the candidate for whom the next available preference is given on those ballot documents.

STV47.4 The vote on each ballot document transferred under rule STV47.3 shall be at a value (“the transfer value”) which:

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

STV47.5 Where at the end of any stage of the count involving the transfer of ballot documents, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballot documents in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped:

- (a) according to the next available preference given on those ballot

documents for any continuing candidate, or

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

STV47.6 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.5(a) to the candidate for whom the next available preference is given on those ballot documents.

STV47.7 The vote on each ballot document transferred under rule STV47.6 shall be at:

- (a) a transfer value calculated as set out in rule STV47.4(b), or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

STV47.8 Each transfer of a surplus constitutes a stage in the count.

STV47.9 Subject to rule STV47.10, the returning officer shall proceed to transfer transferable ballot documents until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

STV47.10 Transferable ballot documents shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are:

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

STV47.11 This rule does not apply at an election where there is only one vacancy.

STV48. Supplementary provisions on transfer

STV48.1 If, at any stage of the count, two or more candidates have surpluses, the transferable ballot documents of the candidate with the highest surplus shall be transferred first, and if:

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

STV48.2 The returning officer shall, on each transfer of transferable ballot documents

under rule STV47:

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

STV48.3 All ballot documents transferred under rule STV47 or STV49 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that ballot document or, as the case may be, all the ballot documents in that sub-parcel.

STV48.4 Where a ballot document is so marked that it is unclear to the returning officer at any stage of the count under rule STV47 or STV49 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot document as a non-transferable vote; and votes on a ballot document shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

STV49. Exclusion of candidates

STV49.1 If:

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

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

STV9.2 The returning officer shall sort all the ballot documents on which first preference votes are given for the candidate or candidates excluded under rule STV49.1 into two sub-parcels so that they are grouped as:

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

STV49.3 The returning officer shall, in accordance with this rule and rule STV48, transfer each sub-parcel of ballot documents referred to in rule STV49.2 to the

candidate for whom the next available preference is given on those ballot documents.

STV49.4 The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.

STV49.5 If, subject to rule STV50, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable ballot documents, if any, which had been transferred to any candidate excluded under rule STV49.1 into sub-parcels according to their transfer value.

STV49.6 The returning officer shall transfer those ballot documents in the sub-parcel of transferable ballot documents with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those ballot documents (thereby passing over candidates who are deemed to be elected or are excluded).

STV49.7 The vote on each transferable ballot document transferred under rule STV49.6 shall be at the value at which that vote was received by the candidate excluded under rule STV49.1.

STV9.8 Any ballot documents on which no next available preferences have been expressed shall be set aside as non-transferable votes.

STV49.9 After the returning officer has completed the transfer of the ballot documents in the sub-parcel of ballot documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under rule STV49.1.

STV49.10 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.

STV49.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules STV47.5 to STV47.10 and rule STV48.

STV49.12 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.

STV49.13 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.

STV50. Filling of last vacancies

STV50.1 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.

STV50.2 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.

STV50.3 Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

STV51. Order of election of candidates

STV51.1 The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule STV47.10.

STV51.2 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.

STV51.3 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.

STV51.4 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.

FPP51. Equality of votes

FPP51.1 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.

FPP52. Declaration of result for contested elections

FPP52.1 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 33(4) of the 2006 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

FPP52.2 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 FPP44.5,
- (c) the number of rejected text voting records under each of the headings in rule FPP44.10,

available on request.

STV52. Declaration of result for contested elections

STV52.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

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

STV52.2 The returning officer is to make:

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

available on request.

53. Declaration of result for uncontested elections

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

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

54. Sealing up of documents relating to the poll

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

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

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

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

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

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

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

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

55. Delivery of documents

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

56. Forwarding of documents received after close of the poll

56.1 Where:

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

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

57. Retention and public inspection of documents

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

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

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

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

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

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

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

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

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

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

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

FPP59. Countermand or abandonment of poll on death of candidate

- FPP59.1 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 voting information has 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.
- FPP59.2 Where a new election is ordered under rule FPP59.1, 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.
- FPP59.3 Where a poll is abandoned under rule FPP59.1(a), rules FPP59.4 to FPP59.7 are to apply.
- FPP59.4 The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 38 and 39, and is to make up separate sealed packets in accordance with rule 40.
- FPP59.5 The returning officer is to:
- (a) count and record the number of ballot papers, internet voting records, telephone voting records and text voting records that have been received,
 - (b) seal up the ballot papers, internet voting records, telephone voting records and text voting records into packets, along with the records of the number of ballot papers, internet voting records, telephone voting records and text voting records and
- ensure that complete electronic copies of the internet voting records telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.
- FPP59.6 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.
- FPP59.7 Once the documents relating to the poll have been sealed up and endorsed

pursuant to rules FPP59.4 to FPP59.6, the returning officer is to deliver them to the chairman of the corporation, and rules 57 and 58 are to apply.

STV59. Countermand or abandonment of poll on death of candidate

STV59.1 If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

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

STV59.2 The ballot documents which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot documents pursuant to rule 54.1(a).

Election expenses

60. Election expenses

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

61. Expenses and payments by candidates

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

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

62. Election expenses incurred by other persons

62.1 No person may:

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

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

Publicity

63. Publicity about election by the corporation

63.1 The corporation may:

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

as it considers necessary.

- 63.2 Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 64, must be:
- (a) objective, balanced and fair,
 - (b) equivalent in size and content for all candidates,
 - (c) compiled and distributed in consultation with all of the candidates standing for election, and
 - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

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

64. Information about candidates for inclusion with voting information

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

64.2 The information must consist of:

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

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

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

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

66. Application to question an election

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

67. Secrecy

67.1 The following persons:

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

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

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

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

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

68. Prohibition of disclosure of vote

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

69. Disqualification

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

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

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

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

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

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

**ANNEX 5 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE
COUNCIL OF GOVERNORS**

(Paragraph 17)

COUNTY DURHAM AND DARLINGTON NHS FOUNDATION TRUST

**STANDING ORDERS
FOR THE PRACTICE AND PROCEDURE
OF THE COUNCIL OF GOVERNORS**

DEFINITIONS

"Council of Governors" means the Chairman and Governors of the Trust collectively as a body.

"Chairman of the Council of Governors (or Trust)" is the person appointed to lead the Board of Directors and Council of Governors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Vice Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

"Chief Executive" means an Executive Director who is also the chief officer of the Trust.

"Committee" means a committee formally appointed by the Council of Governors.

"Committee members" means persons formally appointed by the Council of Governors to sit on or to chair specific committees.

"Executive Director" means an employee of the Trust holding executive office.

"Non-Executive Director" means a director who is appointed for their independence and expertise but who does not hold executive office.

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

"Trust" means County Durham and Darlington NHS Foundation Trust.

"Trust Secretary" means an employee of the Trust appointed to provide independent advice on corporate governance issues to the Chairman, Council of Governors and Board of Directors and monitor the Trust's compliance with these Standing Orders, the Constitution, Authorisation, statutory provisions and guidance.

"Vice Chairman" means the Non-Executive Director appointed by the Council of Governors at a general meeting to take on the Chairman's duties if the Chairman is absent for any reason

1. LEGAL FRAMEWORK

1.1 County Durham and Darlington NHS Foundation Trust (the Trust) is a Public Benefit Corporation established in law on 1 February 2007 under the terms of the Health and Social Care (Community Health and Standards) Act 2003.

1.2 The Trust's Constitution makes provision for Standing Orders for the Practice and Procedure of the Council of Governors. The detailed Standing Orders are set out below.

2. THE COUNCIL OF GOVERNORS

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

- 2.2 All funds received in trust shall be held in the name of the Trust as corporate trustee.
- 2.3 The composition of the Council of Governors is outlined in the Constitution (at Annex 3).

2.4 Role Of The Council of Governors

2.4.1 The Governors are responsible for representing the interests of the Trust's members and partner organisations in the governance of the Trust. In doing so, the Governors must act in the best interests of the Trust and adhere to its values.

2.4.2 The Council of Governors has three main roles :

- a) advisory,
- b) strategic; and
- c) guardianship.

2.4.3 The Council of Governors must work closely with the Board of Directors to discharge these roles and must agree with the Board of Directors how these roles, and any others, will be undertaken.

3. MEETINGS OF THE COUNCIL OF GOVERNORS

3.1 Record of Attendance

Governors should make every effort to attend meetings of the Council of Governors where appropriate and practicable. The names of all individuals present at a meeting of the Council of Governors shall be recorded in the minutes.

3.2 Quorum

3.2.1 No business shall be transacted at a meeting unless at least one third of the Governors, including one third of the Public Governors, are present.

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

3.3 Admission of the Public and the Press

- 3.3.1 The public and representatives of the press shall be afforded facilities to attend all formal meetings of the Council of Governors but may be excluded upon the Council of Governors resolving as follows:

"That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest"

3.3.2 The Chairman (or Vice Chairman) shall give such directions as he thinks fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Trust's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Council of Governors resolving as follows:

"That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Council of Governors to complete business without the presence of the public".

3.3.3 Members of the public or representatives of the press may not record proceedings in any manner whatsoever, other than writing or make any oral report of proceedings as they take place, without the prior agreement of the Council of Governors.

3.4 Frequency of Meetings

3.4.1 The Chairman may call a meeting of the Council of Governors at any time.

3.4.2 The Annual General Meeting will be convened by the Chairman at the request of the Council of Governors.

3.5 Notice of Meetings

3.5.1 Before each meeting of the Council of Governors, a notice signed by the Chairman or by an officer authorised by the Chairman to sign on his behalf, and an agenda specifying the business proposed to be transacted at the meeting, will be delivered to every Governor, or sent by post to their usual place of residence, so as to be available to him at least six clear days before the meeting. Supporting papers shall accompany the agenda whenever possible, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

3.5.2 A notice shall be presumed to have been served one day after posting. Lack of service of the notice or agenda on any member shall not affect the validity of a meeting.

3.5.3 Before each meeting of the Council of Governors, a public notice of the time and place of the meeting, and the public part of the agenda, will be displayed at the Trust's headquarters at least three clear days before the meeting.

3.6 Setting the Agenda

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

3.6.2 A Governor desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least twelve (12) clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than twelve (12) days before a meeting may be included on the agenda at the discretion of the Chairman.

3.7 Chairman of Meeting

3.7.1 At any meeting of the Council of Governors, the Chairman of the Trust shall preside. If the Chairman is absent from the meeting the Vice Chairman of the Trust shall preside. In the absence of the Chairman and Vice Chairman, the Governors will select one of the Governors present to act.

3.7.2 If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Vice Chairman, if present, shall preside. If the Chairman and Vice Chairman are absent, or are disqualified from participating, the Governors will select a Governor from amongst those present to preside.

3.7.3 Except where otherwise permitted by law, at any meeting of the Council of Governors, the Chairman of the Trust shall be the final authority on the interpretation of these Standing Orders.

3.8 Chairman's Ruling

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

3.9 Notice of Motion

3.9.1 Subject to the provision in 'Motions: Procedure at and during a meeting' and 'Motions to rescind a resolution' below, a member of the Council of Governors wishing to move a motion shall send a written notice to the Trust Board Business Manager who will ensure that it is brought to the attention of the Chairman

3.9.2 The notice shall be delivered at least 10 clear days before the meeting. The Chairman shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

3.10 Emergency Motions

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

3.11 Motions: Procedure at and during a meeting

3.11.1 Who may propose - a motion may be proposed by the Chairman of the meeting or any governor present. It must also be seconded by another governor.

3.11.2 Contents of motions

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

- a) the reception of a report;
- b) consideration of any item of business before the Meeting;
- c) the accuracy of minutes;
- d) that the Council of Governors proceed to next business;
- e) that the Council of Governors adjourn;
- f) that the question be now put.

3.11.3 Amendments to motions

A motion for amendment shall not be discussed unless it has been proposed and seconded. Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Council of Governors. If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

3.11.4 Rights of reply to motions

- a) Amendments - The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment, but may not otherwise speak on it.
- b) Substantive/original motion - The member who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

3.11.5 Withdrawing a motion - a motion, or an amendment to a motion, may be withdrawn.

3.11.6 Motions once under debate - when a motion is under debate, no motion may be moved other than:

- 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) that the question should be now put;
- e) the appointment of an 'ad hoc' committee to deal with a specific item of business;
- f) that a governor be not further heard;
- g) a resolution to exclude the public, including the press (see Standing Order 3.17).

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

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

3.12 Motion to Rescind a Resolution

3.12.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member who gives it and also the signature of three other members, and before considering any such motion of which notice shall have been given, the Council of Governors may refer the matter to any appropriate Committee for recommendation.

3.12.2 When any such motion has been dealt with by the Council of Governors, it shall not be competent for any member of the Council of Governors other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee.

3.13 Voting

3.13.1 A question at a meeting may be determined, at the discretion of the Chairman, by a majority of the votes of those Governors present and voting on the question. In the case of the number of votes for and against a motion being equal, the Chairman of the meeting shall have a second or casting vote.

3.13.2 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Governors present so request.

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

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

3.14 Minutes of Meetings of the Council of Governors

3.14.1 The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting.

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

3.14.3 Any amendment to the minutes shall be agreed and recorded at the next meeting. Amendments shall be made to the minutes as soon as practicable after the meeting, and a hard copy of the updated minutes signed by the person presiding the meeting. This will then provide the final record of the agreed minutes.

3.14.4 Minutes shall be circulated in accordance with Governors' wishes. Where providing a record of a public meeting the minutes shall be made available to the

public.

3.15 Suspension of Standing Orders

3.15.1 These Standing Orders may be suspended at any meeting of the Council of Governors (except where this would contravene any provision of the constitution, Authorisation or statutory provisions) provided that at least two-thirds of the Council of Governors are present, including from the public constituency, and that a majority of those present vote in favour of suspension.

3.15.2 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.

3.15.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the Council of Governors.

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

3.16 Variation and Amendment of Standing Orders

These Standing Orders shall be amended only if:

- a) a notice of motion has been given; and
- b) no fewer than half the total of the Governors vote in favour of amendment; and
- c) at least two-thirds of the Council of Governors are present; and
- d) the variation proposed does not contravene anything in the Constitution, Authorisation or statutory provisions.

3.17 Standing Orders to be given to Governors

It is the duty of the Chairman to ensure that existing Governors and all new appointees to the Council of Governors are notified of and understand their responsibilities within these Standing Orders. Updated copies shall be issued to Governors where appropriate.

3.18 Review of Standing Orders

These Standing Orders will be reviewed as and when necessary but at least every three years by the Council of Governors. The requirement for review extends to all documents having the effect as if incorporated in these Standing Orders.

3.19 Overriding Standing Orders

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

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 Delegation to a Committee or Sub Committee

4.1.1 The Council of Governors shall agree from time to time to the delegation of powers to be exercised by committees, or sub-committees, or joint-committees, which it has formally constituted in accordance with the Constitution, Authorisation or statutory provisions. The constitution and terms of reference of these committees, or sub-committees, or joint committees, and their specific powers shall be approved by the Council of Governors.

4.1.2 When the Council of Governors is not meeting in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it in public session.

5. COMMITTEES

5.1 Subject to the Constitution, Authorisation or statutory provisions, the Council of Governors may and, if directed, shall appoint committees of the Trust, consisting wholly or partly of the Chairman and Governors.

5.2 A committee appointed under Standing Order 5.1 above may appoint sub-committees consisting wholly or partly of members of the committee.

5.3 These Standing Orders, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Council of Governors.

5.4 There is no requirement to hold meetings of committees established by the Council of Governors in public.

5.5 Each committee shall have such terms of reference and powers and be subject to such conditions as the Council of Governors shall decide and shall be in accordance with the Constitution, Authorisation or statutory provisions. Such terms of reference shall have effect as if incorporated into these Standing Orders.

5.6 Where committees are authorised to establish sub-committees they may not delegate powers to the sub-committee unless expressly authorised by the Council of Governors.

5.7 The Council of Governors shall approve the appointments to each of the committees which it has formally constituted. The Council of Governors shall define the powers of such appointees and shall agree allowances, including reimbursement for loss of earnings, and/or expenses in accordance where appropriate with national guidance.

5.8 Where the Council of Governors is required to appoint persons to a committee and/or to undertake statutory functions as required by Monitor, and where such appointments are to operate independently of the Council of Governors, such appointment shall be made in accordance with the regulations.

5.9 The committees established by the Council of Governors are:

- Audit and Governance Committee
- Nominations Committee

- Remuneration Committee
- Quality and Healthcare Governance Committee
- Strategy and Planning Committee

The Council of Governors are to establish and/or remove subcommittees at a general meeting of the Council of Governors and agree to delegate powers to any such subcommittee to undertake work on behalf of the Council of Governors. Individual subcommittees do not have delegated powers to make decisions on behalf of the full Council, but may make recommendations for ratification at a general meeting of the Council of Governors.

The Council of Governors will carry out an annual review to assess whether the Committee structure remains fit for purpose.

- 5.10 Before a person who is a governor of another NHS foundation trust is elected by a committee or sub-committee of the Council of Governors to the chair of that committee or sub-committee, the fact that he/she is a governor of another NHS foundation trust shall be expressly stated prior to the vote being taken.

6. DECLARATIONS AND REGISTER OF INTERESTS

6.1 Declaration of Interests

6.1.1 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.

6.1.2 At the time a Governor's interests are declared, they should be recorded in the minutes. Any changes in interests should be declared at the next meeting of the Council of Governors following the change occurring.

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

6.1.4 All existing Governors must declare interests annually. Any Governors appointed subsequently must do so on appointment. Interests which should be regarded as "relevant and material are":

- a) Directorships, including Non-Executive Directorships, held in private or public limited companies (with the exception of dormant companies).
- b) Ownership or part-ownership by a Governor, or any of his immediate family (including spouse, children, parents and grandparents), in private companies, businesses or consultancies currently in business with, or likely to do business with, the NHS.
- c) Majority or controlling shareholdings by a Governor, or any of his immediate family (including spouse, children, parents and grandparents), in organisations currently in business with, or likely to do business with, the NHS.
- d) A position of trust held in a charity or voluntary organisation in the field of health or social care.

- e) Any connection with voluntary or other organisations that contract for NHS Services.
- f) Research funding or grants that may be received as an individual or organisation relating to health or social care.
- g) Interests in pooled funds that are under separate management relating to health or social care.
- h) Any other commercial interest in the issue before the meeting.
- i) Ministerial appointments made by or on behalf of Ministers.
- j) Positions in elected public office, for example as a district or county councillor, MP or MEP.
- k) Public appointments, for example as a Non- Executive Director of an NHS body or police authority.

6.1.5 Directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's Annual Report. The information should be kept up to date for inclusion in succeeding annual reports.

6.1.6 The interests of Governors spouses and cohabiting partners should also be regarded as relevant and disclosable.

6.1.6 If Governors have any doubt about the relevance of an interest, this should be discussed with the Chairman. The interests of spouses and cohabiting partners in professional partnerships including general practitioners should also be considered relevant and disclosable.

6.2 Register of Interests

6.2.1 A Register of Interests will be established to formally record the declarations of interests of Governors. In particular the Register will include details of all directorships and other relevant and material interests which have been declared, as defined in Standing Order 6.1.4 above.

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

6.2.3 The Register of Governors Interests will be made available for inspection by the public in accordance with the constitution.

6.3 Exclusion of Chairman and Governors in proceedings on account of pecuniary interest

6.3.1 Definition of terms used in interpreting 'Pecuniary' interest

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

"spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);

"contract" shall include any proposed contract or other course of dealing.

"Pecuniary interest"

Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-

- a) he, or a nominee of his, is a member of a company or other body (not being a public body), with which the contract is made or to be made or which has a direct pecuniary interest in the same, or
- b) he is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

6.3.2 Exception to Pecuniary interests

A person shall not be regarded as having a pecuniary interest in any contract if:-

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

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.and 7.2.

6.3.3 Exclusion in proceedings of the Council of Governors

- a) Subject to the following provisions of this Standing Order, if the Chairman or a Governor has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council of Governors at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- b) The Council of Governors may exclude the Chairman or a Governor from a meeting of the Council of Governors while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- c) Any remuneration, compensation or allowance payable in the course of their duty to the Chairman or a Governor shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- d) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee of the Council of Governors as it applies to the Trust and applies to a member of any such committee or sub-committee as it applies to an officer of the Trust.

7. Interest of Governors in Contracts

- 7.1 Any Governor of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he or any person connected with him has any pecuniary interest, direct or indirect, shall declare their interest by giving notice in writing of such fact to the Chairman or the Trust Secretary as soon as practicable.
- 7.2 A Governor should also declare to the Chairman or Trust Secretary any other employment or business or other relationship of his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.

8. CANVASSING OF, AND RECOMMENDATIONS BY, GOVERNORS IN RELATION TO APPOINTMENTS

- 8.1 The canvassing of any Governor, directly or indirectly, for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- 8.2 A Governor shall not solicit for any person any appointment with the Trust or recommend any person for such appointment: but this Standing Order shall not preclude a Governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.
- 8.3 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.
- 8.4 Relatives of Governors

8.4.1 Candidates for any staff appointment under the Trust shall, when making application, disclose in writing to the Trust whether they are related to any Governor or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.

8.4.2 Governors shall disclose to the Chairman any relationship with a candidate of whose candidature that Governor is aware. It shall be the duty of the Chairman to report to the Board of Directors any such disclosure made.

8.4.3 On appointment, Governors should disclose to the Trust whether they are related to any other member or holder of any office in the Trust. Where such a relationship is disclosed, the Standing Order headed 'Disability of Chairman and members in proceedings on account of pecuniary interest' shall apply.

**ANNEX 6 – STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE
BOARD OF DIRECTORS**

(Paragraph 28)

COUNTY DURHAM AND DARLINGTON NHS FOUNDATION TRUST

**STANDING ORDERS
FOR THE PRACTICE AND PROCEDURE
OF THE BOARD OF DIRECTORS**

DEFINITIONS

"Accounting Officer" means the NHS Officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust, the Chief Executive is the Accounting Officer.

"Audit Committee" means a committee whose functions are concerned with the arrangements for internal control, financial reporting and internal auditing to ensure transparency and accuracy.

"Board of Directors" means the Chairman, Executive and Non-Executive Directors of the Trust collectively as a body.

"Chairman of the Board of Directors (or Trust)" is the person appointed to lead the Board of Directors and Council of Governors and to ensure that they successfully discharge their overall responsibility for the Trust as a whole. The expression "the Chairman of the Trust" shall be deemed to include the Vice Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

"Chief Executive" means an Executive Director who is also the chief officer of the Trust.

"Committee" means a committee appointed by the Board of Directors.

"Committee members" means those persons formally appointed by the Board of Directors to sit on or to chair specific committees.

"Director of Finance" means the chief financial officer of the Trust.

"Executive Director" means an employee of the Trust holding executive office.

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

"Non-Executive Director" means a director of the Trust who is appointed for their independence and expertise but who does not hold executive office.

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

"Trust" means County Durham and Darlington NHS Foundation Trust.

"Trust Secretary" means an employee of the trust appointed to provide independent advice on corporate governance issues to the Chairman, Council of Governors and Board of Directors and monitor the Trust's compliance with these Standing Orders, the Constitution, Authorisation, statutory provisions and guidance.

"Vice Chairman of the Trust" means the Non-Executive Director appointed by the Council of Governors at a general meeting to take on the Chairman's duties if the Chairman is absent for any reason.

1. LEGAL FRAMEWORK

- 1.1 County Durham and Darlington NHS Foundation Trust (the Trust) is a Public Benefit Corporation established in law on 1 February 2007 under the terms of the Health and Social Care (Community Health and Standards) Act 2003.
- 1.2 Paragraph 16 of the Trust's Constitution makes provision for Standing Orders for the Practice and Procedure of the Board of Directors. The detailed Standing Orders are set out below.

2. THE BOARD OF DIRECTORS

- 2.1 All business conducted by the Board of Directors shall be conducted in the name of the Trust. All decisions must be taken objectively in the interests of the Trust.
- 2.2 The Board will function as a corporate decision-making body and Executive and Non-Executive Board Directors will be full and equal members of the Board. All Directors have joint responsibility for every decision of the Board of Directors regardless of their individual skills or status.
- 2.3 Role of Directors

The role of the Directors as members of the Board of Directors is to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

2.3.1 Executive Directors

Executive Directors will exercise their authority within the terms of these Standing Orders and the Trust's Standing Financial Instructions and the Scheme of Delegation.

2.3.2 Chief Executive

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

2.3.3 Director of Finance

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

2.3.4 Non-Executive Directors

The Non-Executive Directors will not be granted nor will they seek to exercise any individual executive powers on behalf of the Trust. They may however, exercise collective authority when acting as members of or when chairing a committee of the Trust which has delegated powers.

2.3.5 Chairman

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

The Chairman will take responsibility either directly or indirectly for the induction of the Non-Executive Directors, their portfolios of interests and assignments, and their performance.

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

2.4 All funds received in trust shall be held in the name of the Trust as corporate trustee.

2.5 Certain powers and decisions may only be exercised by the Board of Directors in formal session. These powers and decisions are set out in the Trust's Standing Financial Instructions (appendix 1), Scheme of Delegation (appendix 2) and Scheme of Matters Reserved to the Board (appendix 3) and have effect as if incorporated into these Standing Orders.

2.6 Composition of the Board of Directors

The composition of the Board of Directors is as follows:

- the Non Executive Chairman of the Trust
- 5 other Non-Executive Directors
- 5 executive Directors including:
 - The Chief Executive
 - The Director of Finance
 - A registered medical or dental practitioner
 - A registered nurse or midwife

2.7 Vice Chairman of the Board of Directors

The Vice Chairman of the Trust will also be Vice Chairman of the Board of Directors and will take on the Chairman's duties if the Chairman is absent for any reason.

2.8 Integrated Governance

Trust Boards are now encouraged to move away from silo governance and develop integrated governance that will lead to good governance and to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance. Guidance from the Department of Health on the move toward and implementation of integrated governance has been issued and will be incorporated in the Trust's Governance Strategy (see Integrated Governance Handbook 2006). Integrated governance will better enable the Board to take a holistic view of the organisation and its capacity to meet its legal and statutory requirements and clinical, quality and financial objectives.

3. MEETINGS OF THE BOARD OF DIRECTORS

3.1 Record of Attendance

The names of the Chairman and Directors present at the meeting shall be recorded in the minutes.

3.2 Quorum

3.2.1 No business shall be transacted at a meeting unless at least one-third of the Executive and Non-Executive Directors are present (of which a majority must be Non-Executive directors).

3.2.2 An officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.

3.2.3 If the Chairman or Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest he shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one Executive Director to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting (for example when the Board considers the recommendations of the Remuneration Committee).

3.3 Admission of the Public and the Press

3.3.1 The public and representatives of the press shall be afforded facilities to attend all formal meetings of the Board of Directors but may be excluded upon the Board of Directors resolving as follows:

"That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest"

3.3.2 The Chairman shall give such directions as he thinks fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Trust's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Board of Directors resolving as follows:

"That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Board of Directors to complete business without the presence of the public".

3.3.3 Members of the public or representatives of the press may not record proceedings in any manner whatsoever, other than writing, or make any oral report of proceedings as they take place without the prior agreement of the Board of Directors.

3.4 Calling Meetings

3.4.1 The Chairman may call a meeting of the Board of Directors at any time.

3.4.2 The Directors may require the Chairman to convene a meeting by presenting a request for that purpose signed by at least one third of the whole of the Board of Directors. If the Chairman refuses to call a meeting after receipt of a request, or fails to convene a meeting within seven days of receipt of a request, the Directors who signed the request may convene a meeting of the Board of Directors in default of the Chairman.

3.5 Notice of Meetings

3.5.1 Before each meeting of the Board of Directors, a notice signed by the Chairman or by an officer authorised by the Chairman to sign on his behalf, and an agenda specifying the business proposed to be transacted at the meeting, will be delivered to every Director, or sent by post to their usual place of residence, so as to be available to him at least six clear days before the meeting. Supporting papers shall accompany the agenda whenever possible, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

3.5.2 A notice shall be presumed to have been served one day after posting. Lack of service of the notice or agenda on any member of the Board shall not affect the validity of a meeting.

3.5.3 In the case of a meeting called by Directors in default of the Chairman (see 3.4.2), the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice.

3.5.4 Before each meeting of the Board of Directors, a public notice of the time and place of the meeting, and the public part of the agenda, will be displayed at the Trust's headquarters at least three clear days before the meeting.

3.6 Setting the Agenda

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

3.6.2 A Director desiring a matter to be included on an agenda shall make his/her request in writing to the Trust Secretary at least 12 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 12 days before a meeting may be included on the agenda at the discretion of the Chairman.

3.7 Chairman of Meeting

3.7.1 At any meeting of the Board of Directors, the Chairman of the Trust shall preside. If the Chairman is absent from the meeting the Vice Chairman shall preside. In the absence of the Chairman and Vice Chairman, the Directors will elect one of the Non-Executive Directors present to act.

3.7.2 If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Vice Chairman, if present, shall preside. If the Chairman and Vice Chairman are absent, or are disqualified from participating, the Directors will select will select a Non-Executive Director from those present to preside.

3.7.3 Except where otherwise permitted by law, at any meeting of the Board of Directors, the Chairman of the Trust shall be the final authority on the interpretation of these Standing Orders.

3.8 Chairman's Ruling

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

3.9 Notice of Motion

3.9.1 Subject to the provision in 'Motions: Procedure at and during a meeting' and 'Motions to rescind a resolution' below, a member of the Board wishing to move a motion shall send a written notice to the Trust Secretary who will ensure that it is brought to the attention of the Chairman

3.9.2 The notice shall be delivered at least 10 clear days before the meeting. The Chairman shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

3.10 Emergency Motions

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

3.11 Motions: Procedure at and during a meeting

3.11.1 Who may propose - a motion may be proposed by the Chairman of the meeting or any Director present. It must also be seconded by another Director.

3.11.2 Contents of motions

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

- g) the reception of a report;
- h) consideration of any item of business before the Trust Board;
- i) the accuracy of minutes;
- j) that the Board proceed to next business;

- k) that the Board adjourn;
- l) that the question be now put.

3.11.3 Amendments to motions

A motion for amendment shall not be discussed unless it has been proposed and seconded. Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board. If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

3.11.4 Rights of reply to motions

- a) Amendments - The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment, but may not otherwise speak on it.
- b) Substantive/original motion - The member of the Board who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

3.11.5 Withdrawing a motion - a motion, or an amendment to a motion, may be withdrawn.

3.11.6 Motions once under debate - when a motion is under debate, no motion may be moved other than:

- 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) that the question should be now put;
- e) the appointment of an 'ad hoc' committee to deal with a specific item of business;
- f) that a member of the Board be not further heard;
- g) a resolution to exclude the public, including the press (see Standing Order 3.17).

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

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

3.12 Motion to Rescind a Resolution

3.12.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the member of the Board who gives it and also the signature of three

other members of the Board, and before considering any such motion of which notice shall have been given, the Trust Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.

3.12.2 When any such motion has been dealt with by the Trust Board it shall not be competent for any Director other than the Chairman to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

3.13 Voting

3.13.1 A question at a meeting may be determined, at the discretion of the Chairman, by a majority of the votes of those Directors present and voting on the question. In the case of the number of votes for and against a motion being equal, the Chairman of the meeting shall have a second or casting vote.

3.13.2 All questions put to the vote shall, at the discretion of the Chairman of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Directors present so request.

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

3.13.4 An officer who has been appointed formally by the Board of Directors to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director.

3.13.5 An officer attending a meeting of the Board of Directors to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.

3.13.6 An officer's status when attending a meeting of the Board of Directors shall be recorded in the minutes.

3.14 Minutes of Meetings of the Board of Directors

3.14.1 The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting.

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

3.14.3 Any amendment to the minutes shall be agreed and recorded at the next meeting. Amendments shall be made to the minutes as soon as practicable after the meeting, and a hard copy of the updated minutes signed by the person presiding the meeting. This will then provide the final record of the agreed minutes.

3.14.4 Minutes shall be circulated in accordance with Directors' wishes. Where providing a record of a public meeting the minutes shall be made available to the

public.

3.15 Joint Directors

Where the office of Director is shared jointly by more than one person:

- a) Either or both of may attend or take part in meetings of the Board of Directors.
- b) If both are present at a meeting they should cast one vote if they agree.
- c) In the case of disagreements no vote should be cast.
- d) The presence of either or both of those persons should count as the presence of one person for the purposes of a quorum.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 Subject to the Constitution, Authorisation or statutory provisions, the Board of Directors may make arrangements for the exercise-of any of its functions:

- a) by a committee, sub-committee appointed by virtue of these Standing Orders
- b) by a Director or officer of the Trust, or
- c) by another body as defined in these Standing Orders.

In each case subject to such restrictions and conditions as the Trust thinks fit.

4.2 Emergency Powers

The powers which the Board of Directors has retained to itself within these Standing Orders may in emergency be exercised by the Chief Executive and the Chairman after having consulted with at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the Executive Committee and the Board of Directors for ratification.

4.3 Delegation to a Committee or Sub Committee

4.3.1 The Board of Directors shall agree from time to time to the delegation of powers to be exercised by committees, or sub-committees, or joint-committees, which it has formally constituted in accordance with the Constitution, Authorisation or statutory provisions. The constitution and terms of reference of these committees, or sub-committees, or joint committees, and their specific executive powers shall be approved by the Board of Directors.

4.3.2 When the Board of Directors is not meeting as the Trust in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it by the Trust in public session.

4.4 Delegation to Officers

4.4.1 Those functions of the Trust which have not been retained as reserved by the Board of Directors or delegated to a committee or sub-committee or joint-committee shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions he will perform personally and shall nominate officers

to undertake the remaining functions for which he will still retain an accountability to the Board of Directors.

4.4.2 The Chief Executive shall prepare a Scheme of Delegation identifying his proposals which shall be considered and approved by the Board of Directors, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation that shall be considered and approved by the Board of Directors as indicated above.

4.4.3 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability of the Executive Directors to the Board of Directors to provide information and advise the Board of Directors in accordance with the Constitution, Authorisation or statutory provisions.

4.4.4 The arrangements set out in the Trust's Standing Financial Instructions, Scheme of Delegation and Scheme of Matters Reserved to the Board and have effect as if incorporated into these Standing Orders.

4.5 Overriding Standing Orders

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

5 COMMITTEES

5.1 Subject to the Constitution, Authorisation, or statutory provisions, the Board of Directors may and, if directed, shall appoint committees of the Trust consisting wholly or partly of the Chairman and Directors.

5.2 A committee appointed under SO 5.1 may appoint sub-committees consisting wholly or partly of members of the committee.

5.3 These Standing Orders, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Board of Directors.

5.4 There is no requirement to hold meetings of committees established by the Board of Directors in public.

5.5 Each committee shall have such terms of reference and powers and be subject to such conditions as the Board of Directors shall decide and shall be in accordance with the Constitution, Authorisation or statutory provisions. Such terms of reference shall have effect as if incorporated into the Standing Orders.

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

5.7 The Board of Directors shall approve the appointments to each of the committees which it has formally constituted. The Board of Directors shall define the powers of such appointees and shall agree allowances, including reimbursement for loss of earnings, and/or expenses in accordance where appropriate with national guidance.

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

5.9 The committees established by the Board of Directors are;

- Audit Committee
- Nominations Committee
- Remuneration Committee

In addition, the Board of Directors may also establish and/or remove subcommittees at a general meeting of the Board of Directors and agree to delegate powers to any such subcommittee to undertake work on behalf of the Board.

No one, other than the Committee Chairman and Committee Members is entitled to be present at a meeting of the Audit Committee, Nominations Committee or Remuneration Committee. However, other individuals may attend at the invitation of the Committee or as established by these Standing Orders.

6. DECLARATIONS AND REGISTER OF INTERESTS

6.1 Declaration of Interests

6.1.1 All existing Directors must declare interests annually. Any Directors appointed subsequently must do so on appointment. Interests which should be regarded as “relevant and material are”:

- a) Directorships, including non-executive directorships, held in private or public limited companies (with the exception of dormant companies).
- b) Ownership or part-ownership by a Director, or any of his immediate family (including spouse, children, parents and grandparents), in private companies, businesses or consultancies currently in business with, or likely to do business with, the NHS.
- c) Majority or controlling shareholdings by a Director, or any of his immediate family (including spouse, children, parents and grandparents), in organisations currently in business with, or likely to do, business with, the NHS.
- d) A position of trust held in a charity or voluntary organisation in the field of health or social care.
- e) Any connection with voluntary or other organisations that contract for NHS Services.
- f) Research funding or grants that may be received as an individual or organisation relating to health or social care.
- g) Interests in pooled funds that are under separate management relating to health or social care.
- h) Any other commercial interest in the issue before the meeting.
- i) Ministerial appointments made by or on behalf of Ministers.
- j) Positions in elected public office, for example as a district or county councillor, MP or MEP.
- k) Public appointments, for example as a non-executive director of an NHS body or police authority.

6.1.2 At the time a Director's interests are declared, they should be recorded in the minutes. Any changes in interests should be declared at the next meeting of the Board of Directors following the change occurring.

6.1.3 Directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's Annual Report. The information should be kept up to date for inclusion in succeeding annual reports.

6.1.4 During the course of a Board of Directors meeting, if a conflict of interest is established, the member of Board concerned should withdraw from the meeting and play no part in the relevant discussion or decision.

6.1.5 The interests of Directors' spouses and cohabiting partners should also be regarded as relevant and disclosable.

6.1.6 Directors have any doubt about the relevance of an interest, this should be discussed with the Chairman. The interests of spouses and cohabiting partners in professional partnerships including general practitioners should also be considered relevant and disclosable.

6.2 Register of Interests

6.2.1 A Register of Interests will be established to formally record the declarations of interests of Directors. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by both Executive and Non-Executive Board members, as defined in Standing Order 6.1.1.

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

6.2.3 Subject to contrary regulations being passed, the Register will be available for inspection by the public free of charge. The Trust Secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

6.2.4 Copies or extracts of the Register will be provided to members of the NHS Foundation Trust free of charge and within a reasonable time period of the request. A reasonable charge may be imposed on non-members for copies or extracts of the Register.

6.3 Exclusion of Chairman and Directors in proceedings on account of pecuniary interest

6.3.1 Definition of terms used in interpreting 'Pecuniary' interest

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

"spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);

"contract" shall include any proposed contract or other course of dealing.

“Pecuniary interest”

Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-

- a) he, or a nominee of his, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
- b) he is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

6.3.2 Exception to Pecuniary interests

A person shall not be regarded as having a pecuniary interest in any contract if:-

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

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2 2.

6.3.3 Exclusion in proceedings of the Trust Board

- a) Subject to the following provisions of this Standing Order, if the Chairman or a member of the Board has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- b) The Trust Board may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- c) Any remuneration, compensation or allowance payable in the course of their duty to the Chairman or a member of the Board shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- d) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Trust and applies to a member of

any such committee or sub-committee (whether or not he is also a Director of the Trust) as it applies to a Director of the Trust.

7. STANDARDS OF BUSINESS CONDUCT POLICY

7.1 Directors should comply with the national guidance contained in HSG 1993/5 "Standards of Business Conduct for NHS Staff". This section of Standing Orders should be read in conjunction with this document.

7.2 Interest of Directors in Contracts

7.2.1 Any Director or officer of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he or any person connected with him has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or the Trust Secretary as soon as practicable.

7.2.2 A director or officer should also declare to the Chief Executive any other employment or business or other relationship of his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.

7.3 Canvassing of, and Recommendations by, Directors in Relation to Appointments

7.3.1 Canvassing Directors or members of any Committee of the Board of Directors directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.

7.3.2 A Director shall not solicit for any person any appointment with the Trust or recommend any person for such appointment: but this Standing Order shall not preclude a Director from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

7.3.3 Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

7.4 Relatives of Directors

7.4.1 Candidates for any staff appointment under the Trust shall, when making application, disclose in writing to the Trust whether they are related to any Director or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.

7.4.2 Directors and officers of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Director or officer is aware. It shall be the duty of the Chief Executive to report to the Board of Directors any such disclosure made.

7.4.3 On appointment, (and prior to acceptance of an appointment in the case of Executive Directors) Directors and officers of the Trust should disclose to the Trust whether they are related to any other director or holder of any office in the Trust. Where such a relationship is disclosed, the Standing Order headed 'Disability of Chairman and Directors in proceedings on account of pecuniary interest' shall apply.

8. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

- 8.1 The Trust Seal shall be kept by the Trust Secretary in a secure place.
- 8.2 The Trust Seal shall not be affixed to any documents unless the sealing has been authorised by a resolution of the Board of Directors or of a committee thereof or where the Board of Directors has delegated its powers.
- 8.3 Before any building, engineering, property or capital document is sealed it must be approved and signed by the Director of Finance (or an officer nominated by him/her) and authorised and countersigned by the Chief Executive (or an officer nominated by him who shall not be within the originating directorate).
- 8.4 Register of Sealing

An entry of every sealing shall be made and numbered consecutively in a register provided for that purpose. The register shall include details of the date of sealing, the nature of the document and the persons who shall have approved and authorised the document and those who attested the seal. A report of all sealings shall be made to the Board of Directors at least quarterly and shall include details of the seal number, the description of the document and the date of sealing.

9. SIGNATURE OF DOCUMENTS

- 9.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the Chief Executive, unless any enactment otherwise requires or authorises, or the Board of Directors shall have given the necessary authority to some other person for the purpose of such proceedings.
- 9.2 The Chief Executive or nominated officers shall be authorised, by resolution of the Board of Directors, to sign on behalf of the Trust any agreement or other document not requested to be executed as a deed, the subject matter of which has been approved by the Board of Directors or any committee, sub-committee or standing committee with delegated authority.

10. STANDING ORDERS

10.1 Suspension of Standing Orders

10.1.1 These Standing Orders may be suspended at any meeting of the Board of Directors (except where this would contravene any provision of the Constitution, Authorisation or statutory provisions) provided that at least two-thirds of the Board of Directors are present, including one Executive Director and one Non-Executive Director and that a majority of those present vote in favour of suspension.

10.1.2 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.

10.1.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chairman and members of the Board of Directors.

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

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

10.2 Variation and Amendment of Standing Orders

These Standing Orders shall be amended only if:

- a) a notice of motion has been given; and
- b) no fewer than half the total of the Non-Executive Directors vote in favour of amendment; and
- c) at least two-thirds of the Board members are present; and
- d) the variation proposed does not contravene anything in the Constitution, Authorisation or a statutory provision.

10.3 Standing Orders to be given to Directors and Officers

It is the duty of the Chief Executive to ensure that existing Directors and officers and all new appointees to the Board of Directors are notified of and understand their responsibilities within these Standing Orders, Standing Financial Instructions, the Scheme of Delegation and Scheme of Matters Reserved to the Board. Updated copies shall be issued to staff designated by the Chief Executive. New designated officers shall be informed in writing and shall receive copies where appropriate in Standing Orders.

10.4 Review of Standing Orders

These Standing Orders will be reviewed as and when necessary but at least every three years.

ANNEX 7 – DISPUTE RESOLUTION PROCEDURE

(Paragraph 42)

In the event of a dispute between the Trust’s Council of Governors (“**the Council**”) and the Board of Directors (“**the Board**”), the matter shall be referred for consideration by a Dispute Resolution Panel (“**the Panel**”).

The Panel shall consist of representation from both the Council and the Board, as follows:

- **the Chairman**
- **the Chief Executive**
- **the Senior Independent Director, and**
- **three Governors nominated by the Council** (the majority of which shall be public Governors).

The panel shall be assisted and supported by the Trust Secretary and use all reasonable endeavours to facilitate a resolution to the dispute, including: taking into account the opinions of the wider Council and Board members; considering any documentation or testimony relevant to the disputed matter; and, (if necessary) a hearing of such opinions and evidence. The decision of the panel shall be final and the outcome reached by the Panel shall be reported by the Chairman to the Council of Governors and the Board of Directors at their next meeting following the Panel’s decision.

In the event a member of the Panel or the Trust Secretary would have a significant conflict of interest which would prevent them from undertaking their duties as described within this procedure, then the Council and the Board may jointly agree an alternative replacement for the disputed matter.

In the event that a resolution cannot be reached by the Panel, the matter should be referred for mediation by an external mediator, appointed by the Centre for Dispute Resolution (“**CEDR**”) or such other organisation as agreed by the Panel.

All matters dealt with by the Panel are done so in strict confidence and shall be without prejudice to the rights of any parties in any future proceedings. Nothing in the Dispute Resolution Procedure shall preclude any party from referring the dispute to Monitor, the CQC or other such regulatory organisation, nor preclude any party from referring the dispute to a court of competent jurisdiction in England and Wales.