

CONSTITUTION OF

HEATHERWOOD AND WEXHAM PARK HOSPITALS NHS FOUNDATION TRUST (A PUBLIC BENEFIT CORPORATION)

DEFINITIONS

- 1.1 Unless the contrary intention appears or the context otherwise requires, words or expressions contained in this constitution bear the same meaning as in the National Health Service Act 2006.
- 1.2 References in this constitution to legislation include all amendments, replacements, or re-enactments made.
- 1.3 Headings are for ease of reference only and are not to affect interpretation.
- 1.4 Words importing the masculine gender only shall include the feminine gender; words importing the singular shall include the plural and vice-versa.
- 1.5 In this constitution:
- “the 2006 Act” means the National Health Service Act 2006;
- “appointed Governors” means those Governors appointed by the appointing organisations;
- “appointing organisations” means those organisations named in this constitution who are entitled to appoint Governors;
- “areas of the Trust” means the five areas specified in Annex 1 which are Slough, Windsor and Maidenhead, Bracknell Forest, Buckinghamshire and other outer catchment areas (referred to in this constitution as “Outer Catchment Area”);
- “authorisation” means an authorisation given by the Independent Regulator;
- “Board of Directors” means the Board of Directors as constituted in accordance with this constitution;
- “Council of Governors” means the Council of Governors as constituted in accordance with this constitution, which has the same meaning as the board of governors in the 2006 Act;
- “Director” means a member of the Board of Directors;
- “elected Governors” means those Governors elected by the public constituencies and the classes of staff constituency;
- “financial auditor” means the person appointed to audit the accounts of the Trust, who is called the auditor in the 2006 Act;
- “Financial year” means:

- (a) the period beginning with the date on which the Trust is authorised and ending with the next 31 March; and
- (b) each successive period of twelve months beginning with 1 April;

“health service body” means for the purposes of this constitution NHS Trust, NHS Foundation Trust, Primary Care Trust, Strategic Health Authority, Special Health Authority and any successor organisation to any such body;

“Independent Regulator” means the regulator for the purposes of Part 2 of the 2006 Act;

“Local Authority Governor” means a Governor appointed by one or more local authorities whose area includes the whole or part of one of the areas of the Trust;

“Member” means a member of the Trust;

“NHS Governor” means a Governor appointed by a Primary Care Trust for which the Trust provides goods or services;

“the NHS Trust” means the Heatherwood and Wexham Park Hospitals NHS Trust which made the application to become an NHS Foundation Trust;

“partner” means, in relation to another person, a member of the same household living together as family unit

“Partnership Organisation Governor” means a Governor appointed under this constitution by a partnership organisation;

“Public Governor” means a Governor elected by the members of one of the public constituencies;

“public constituency” means (collectively) those members living in one of the areas of the Trust;
“registered dentist” means a registered dentist within the meaning of the Dentists Act 1984;

“registered medical practitioner” means a fully registered person within the meaning of the Medicines Act 1983 who holds a licence to practice under that Act;

“Secretary” means the Secretary of the Trust or any other person appointed to perform the duties of the Secretary;

“Staff Governor” means a Governor appointed by one of the classes of the staff constituency;

“staff constituency” means (collectively) those members of the four classes comprising the staff constituency;

“the Trust” means Heatherwood and Wexham Park Hospitals NHS Foundation Trust;

2 NAME AND STATUS

The name of the Trust is to be “Heatherwood and Wexham Park Hospitals NHS Foundation Trust”. The Trust is a public benefit corporation authorised under the 2006 Act.

3 PURPOSE

The Trust's purpose is to serve the community by the provision of goods and services for the purposes of the health service in England.

4 FUNCTIONS

- 4.1 The function of the Trust is to provide goods and services, including clinical services, education and training, research, accommodation and other facilities, for purposes related to the provision of health care.
- 4.2 The Trust may also (subject to any restrictions in the authorisation) carry on other functions for the purpose of making additional income available in order to carry on the Trust's principal purpose better.
- 4.3 The profits or surpluses of the Trust are not to be distributed either directly or indirectly in any way at all among members of the Trust.

5 POWERS

- 5.1 Within the terms of the authorisation, the Trust may do anything which appears to it to be necessary or desirable for the purposes of or in connection with its functions.
- 5.2 In particular it may:
 - 5.2.1 acquire and dispose of property
 - 5.2.2 enter into contracts
 - 5.2.3 accept gifts of property (including property to be held on Trust for the purposes of the Trust or for any purposes relating to the health service)
 - 5.2.4 employ staff
- 5.3 Any power of the Trust to pay remuneration and allowances to any person includes the power to make arrangements for providing, or securing the provision of, pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).
- 5.4 The Trust may borrow money for the purposes of or in connection with its functions, subject to the limit imposed by the authorisation or specified in the prudential borrowing code made by the Independent Regulator from time to time.
- 5.5 The Trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions. The investment may include investment by:
 - 5.5.1 forming, or participating in forming, bodies corporate
 - 5.5.2 otherwise acquiring membership of bodies corporate
- 5.6 The Trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.

COMMITMENTS

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

Representative Membership

- 6.2 The Trust shall at all times strive to ensure that taken as a whole its actual

membership is representative of those eligible for membership. To this end:

6.2.1 the Trust shall at all times have in place and pursue a membership strategy which shall be approved by the Council of Governors, and shall be reviewed by them from time to time, and at least every three years

6.2.2 Council of Governors shall present to each annual members' meeting:

6.2.2.1 a report on steps taken to secure that taken as a whole the actual membership of its public constituencies and of the classes of the staff constituency is representative of those eligible for such membership

6.2.2.2 the progress of the membership strategy

6.2.2.3 any changes to the membership strategy

Co-operation with health service and other public bodies

6.3 In exercising its functions the Trust shall co-operate with health service bodies and other public bodies serving the community served by the Trust.

Respect for rights of people

6.4 In conducting its affairs, the Trust shall respect the rights of members of the community it serves, its employees and people dealing with the Trust as set out in the Charter of Fundamental Rights of the European Union.

Openness

6.5 In conducting its affairs, the Trust shall have regard to the need to provide information to members and conduct its affairs in an open and accessible way.

FRAMEWORK

7.1 The affairs of the Trust are to be conducted by the Board of Directors, Council of Governors and the members in accordance with this constitution and the Trust's authorisation. The Board of Directors, Council of Governors and members are to have their roles and responsibilities set out in this constitution.

Members

7.2 Members may attend and participate at members' meetings, vote in elections to, and stand for election to Council of Governors, and take such other part in the affairs of the Trust as is provided in this constitution.

Council of Governors

7.3 The roles and responsibilities of the Council of Governors, are:

7.3.1 at a General Meeting:

7.3.1.1 to appoint or remove the Chairman and the other Non Executive Directors

7.3.1.2 to approve an appointment (by the Non Executive Directors) of the Chief Executive

7.3.1.3 to decide the remuneration and allowances, and the other terms

and conditions of office, of the Chairman and the other Non Executive Directors

- 7.3.1.4 to appoint or remove the Trust's financial auditor
 - 7.3.1.5 to appoint or remove any auditor appointed to review and publish a report on any other aspect of the Trust's affairs
 - 7.3.1.6 to be presented with the Annual Accounts, any report of the financial auditor on them and the Annual Report
 - 7.3.2 to provide their views to the Board of Directors when the Board of Directors is preparing the document containing information about the Trust's forward planning
 - 7.3.3 to respond as appropriate when consulted by the Board of Directors in accordance with this constitution
 - 7.3.4 to undertake such functions as the Board of Directors shall from time to time request
 - 7.3.5 to prepare and from time to time to review the Trust's membership strategy, its policy for the composition of Council of Governors and of the Non Executive Directors
 - 7.3.6 when appropriate to make recommendations for the revision of this constitution.
- 7.4 A third party dealing in good faith with the Trust shall not be affected by any defect in the process by which Governors are appointed or any vacancy on the Council of Governors.

Board of Directors

- 7.5 The business of the Trust is to be managed by the Board of Directors, who (subject to this constitution) shall exercise all the powers of the Trust.
- 7.6 A third party dealing in good faith with the Trust shall not be affected by any defect in the process by which Directors are appointed or any vacancy on the Board of Directors.

MEMBERS

- 8.1 The members of the Trust are those individuals whose names are entered in the register of members. Every member is either a member of a public constituency or a member of one of the classes of the staff constituency.
- 8.2 Subject to this constitution, membership is open to any individual who:
- 8.2.1 has attained 16 years of age
 - 8.2.2 is entitled under this constitution to be a member of a public constituency or one of the classes of the staff constituency; and
 - 8.2.3 completes or has completed a membership application form in whatever form Council of Governors specifies or approves.

Public constituencies

- 8.3 There are five public constituencies corresponding to the five areas specified in Annex 1. Membership of a public constituency is open to individuals:
- 8.3.1 who live in the relevant area of the Trust
 - 8.3.2 who are not members of another public constituency; and
 - 8.3.3 who are not eligible to be members of any classes of the staff constituency.
- 8.4 The minimum number of members of each of the public constituencies is to be 50.
Staff constituency
- 8.5 The staff constituency is to be divided into four classes as follows:
- 8.5.1 Medical
 - 8.5.2 Nursing and midwifery
 - 8.5.3 Other clinical
 - 8.5.4 Non clinical
- 8.6 Membership of one of the classes of the staff constituency is open to individuals:
- 8.6.1 who are employed by the Trust under a contract of employment which has no fixed term or a fixed term of at least 12 months, or
 - 8.6.2 who have been continuously employed by the Trust or the NHS Trust for at least 12 months; or
 - 8.6.3 who are not so employed but who nevertheless exercise functions for the purposes of the Trust; and who have exercised the functions for the purposes of the Trust or the NHS Trust for at least 12 months continuously excluding volunteers;
 - 8.6.4 for the avoidance of doubt those individuals who hold an honorary contract with the Trust exercise functions for the purposes of the Trust and must satisfy the conditions set out in clause 8.6.3.
- 8.7 The Secretary shall make a final decision about the class of which an individual is eligible to be a member.
- 8.8 All individuals who are entitled under this constitution to become members of one of the classes of the staff constituency, and who
- 8.8.1 have been invited by the Trust to become a member of the appropriate class, and
 - 8.8.2 have not informed the Trust that they do not wish to do so shall become members of the appropriate class.
- 8.9 The minimum number of members of each of the classes of the staff constituency is to be 20.
- 8.10 A person who is eligible to be a member of one of the classes of the staff constituency may not become or continue as a member of any of the public constituencies, and may not become or continue as a member of more than one

class of the staff constituency.

DISQUALIFICATION FROM MEMBERSHIP

- 9.1 A person may not be a member of the Trust if
- 9.1.1 in the opinion of the Council of Governors, there are reasonable grounds to believe that they are likely to act in a way detrimental to the interests of the Trust
 - 9.1.2 they have within the preceding two years been dismissed, otherwise than by reason of redundancy from any paid employment with any health service body
 - 9.1.3 the Trust has been notified by an appropriate authority that their name appears on the sex offenders register
 - 9.1.4 within the last 5 years they have been involved in a serious incident of violence at any of the Trust's hospitals or facilities or against any of the Trust's employees or registered volunteers

10 TERMINATION OF MEMBERSHIP

- 10.1 A member shall cease to be a member if:
- 10.1.1 they resign by notice to the Secretary
 - 10.1.2 they die
 - 10.1.3 they are disqualified or expelled from membership under this constitution
 - 10.1.4 they cease to be entitled under this constitution to be a member of a public constituency or any class of the staff constituency
 - 10.1.5 it appears to the Secretary that they no longer wish to be a member of the Trust, and after enquiries made in accordance with a process approved by the Council of Governors, they fail to establish that they wish to continue to be a member of the Trust.
- 10.2 A member may be expelled by a resolution approved by not less than three quarters of Council of Governors present and voting at a General Meeting. The following procedure is to be adopted.
- 10.2.1 Any member may complain to the Secretary that another member has acted in a way detrimental to the interests of the Trust.
 - 10.2.2 If a complaint is made, Council of Governors may itself consider the complaint having taken such steps as it considers appropriate to ensure that each member's point of view is heard and may either:
 - 10.2.2.1 dismiss the complaint and take no further action or
 - 10.2.2.2 arrange for a resolution to expel the member complained of to be considered at the next General Meeting of the Council of Governors.
 - 10.2.3 If a resolution to expel a member is to be considered at a General Meeting of the Council of Governors, details of the complaint must be sent to the

member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the meeting.

10.2.4 At the meeting, Council of Governors will consider evidence in support of the complaint and such evidence as the member complained of may wish to place before them.

10.2.5 If the member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.

10.3 A person expelled from membership will cease to be a member upon the declaration by the Chairman of the meeting that the resolution to expel them is carried.

10.4 No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of three-quarters of Council of Governors present and voting at a General Meeting.

11 MEMBERS' MEETINGS

11.1 The Trust is to hold a members' meeting (called the annual members' meeting) within nine months of the end of each financial year.

11.2 All members' meetings other than annual meetings are called special members' meetings.

11.3 Members' meetings are open to all members of the Trust, members of the Council of Governors and the Board of Directors and representatives of the Trust's financial auditors, but not to members of the public. Council of Governors may invite representatives of the media and any experts or advisors, whose attendance they consider to be in the best interests of the Trust to attend a members' meeting.

11.4 All members' meetings are to be convened by the Secretary by order of Council of Governors.

11.5 The Council of Governors may decide where a members' meeting is to be held and may also for the benefit of members:

11.5.1 arrange for the annual members' meeting to be held in different venues each year:

11.5.2 make provisions for a members' meeting to be held at different venues simultaneously or at different times. In making such provision the Council of Governors shall also fix an appropriate quorum for each venue, provided that the aggregate of the quorum requirements shall not be less than the quorum set out below.

11.6 At the annual members' meeting:

11.6.1 The Council of Governors shall present to the members:

11.6.1.1 the Annual Accounts

11.6.1.2 any report of the financial auditor

11.6.1.3 any report of any other auditor of the Trust's affairs

11.6.1.4 forward planning information for the next financial year

- 11.6.1.5 a report on steps taken to secure that (taken as a whole) the actual membership of its constituencies is representative of those eligible for such membership
- 11.6.1.6 the progress of the membership strategy
- 11.6.1.7 any proposed changes to the policy for the composition of the Council of Governors and of the Non Executive Directors
- 11.6.2 the results of the election(s) and appointment of Governors will be announced.
- 11.7 Notice of a members' meeting is to be given:
 - 11.7.1 by notice sent by prepaid second class post to all members or by e-mail to any member who has nominated an email address to the Trust as their address for service of notices;
 - 11.7.2 by notice prominently displayed at the registered office and at all of the Trust's places of business; and
 - 11.7.3 by notice on the Trust's website at least 14 clear days before the date of the meeting. The notice must:
 - 11.7.4 be given to Council of Governors and the Board of Directors, and to the financial auditor
 - 11.7.5 state whether the meeting is an annual or special members' meeting
 - 11.7.6 give the time, date and place of the meeting and
 - 11.7.7 indicate the business to be dealt with at the meeting.
- 11.8 Before a members' meeting can do business there must be a quorum present. Except where this constitution says otherwise a quorum is 7 members entitled to vote at the meeting.
- 11.9 The Trust may make arrangements for members to vote by post, or by using electronic communications.
- 11.10 It is the responsibility of Council of Governors, the Chairman of the meeting and the Secretary to ensure that at any members' meeting:
 - 11.10.1 the issues to be decided are clearly explained;
 - 11.10.2 sufficient information is provided to members to enable rational discussion to take place;
 - 11.10.3 where appropriate, experts in relevant fields or representatives of special interest groups are invited to address the meeting.
- 11.11 The Chairman of the Council of Governors or in his/her absence a nominated Non Executive Director of the Board of Directors or in his/her absence some other Governor/s nominated by Council of Governor shall act as chairman at all members' meetings of the Trust. If neither the Chairman nor the nominated Non Executive Director nor the nominated Governor is present and willing to act, the Governor present shall elect one of their number to be Chairman and if there is only one Governor present and willing to act they shall be Chairman. If no Governor is willing

to act as Chairman or if no Governor is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be Chairman.

- 11.12 If no quorum is present within half an hour of the time fixed for the start of the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as Council of Governors determines. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of members present during the meeting is to be a quorum.
- 11.13 Subject to this constitution, a resolution put to the vote at a members' meeting shall be decided upon by a poll.
- 11.14 Every member present and every member who has voted by post or using electronic communications is to have one vote. In the case of an equality of votes the Chairman of the meeting is to have a second or casting vote.
- 11.15 The result of any vote will be declared by the Chairman and entered in the minute book. The minute book will be conclusive evidence of the result of the vote.
- 12 Council of Governors
- 12.1 The Trust is to have a Council of Governors. It is to consist of Public Governor, Staff Governor, NHS Governor, Local Authority Governor and Partnership Organisation Governor. The aggregate number of Public Governors is to be more than half of the total number of Governors.
- 12.2 The Council of Governors shall, subject to the 2006 Act, seek to ensure that:
- 12.2.1 the interests of the community served by the Trust are appropriately represented;
- 12.2.2 the level of representation of the public constituencies, the staff constituency and the appointing organisations strikes an appropriate balance having regard to their legitimate interest in the Trust's affairs;
- and to this end, the Council of Governors
- 12.2.3 shall at all times maintain a policy for the composition of Council of Governors which takes account of the membership strategy and which specifies the allocation of Public Governors to particular geographical regions and the allocation of Staff Governors to particular classes of staff; and
- 12.2.4 shall from time to time and not less than every three years review the policy for the composition of Council of Governors; and
- 12.2.5 when appropriate shall propose amendments to this constitution.
- 12.3 The Council of Governors of the Trust is to comprise:
- 12.3.1 14 Public Governors, from the following constituencies:
- 12.3.1.1 Slough: 3 members
- 12.3.1.2 Windsor and Maidenhead: 3 members
- 12.3.1.3 Bracknell Forest: 3 members

12.3.1.4 Buckinghamshire: 3 members

12.3.1.5 Outer Catchment Area: 2 members

12.3.2 4 Staff Governors from the following classes:

12.3.2.1 Medical: 1 member

12.3.2.2 Nursing and Midwifery: 1 member

12.3.2.3 Other clinical: 1 member

12.3.2.4 Non clinical: 1 member

12.3.3 2 NHS Governors to be appointed by Slough PCT, Windsor Ascot and Maidenhead PCT, Bracknell Forest PCT and South Buckinghamshire and Chiltern PCT, or any successor organisation or organisations carrying out equivalent functions to such PCT's following any reorganisation of the structure of the NHS, between them

12.3.4 4 Local Authority Governors to be appointed by Slough Borough Council, Royal Borough of Windsor and Maidenhead, Bracknell Forest District Council and Buckinghamshire County Council between them

12.3.5 3 Partnership Organisation Governors to be appointed by partnership organisations.

12.4 The partnership organisations that may appoint a Partnership Organisation Governor are:

12.4.1 The Berkshire, Buckinghamshire and Oxfordshire Local Medical Council: 1 member

12.4.2 Age Concern: 1 member

12.4.3 The Women's Royal Volunteer Service and The League of Friends: 1 member between them

Elected Governors

12.5 Public Governors are to be elected by members of the public constituency to which they belong, and Staff Governors are to be elected by members of the class of the staff constituency to which they belong.

12.6 If contested, the elections must be by secret ballot.

12.7 Elections shall be carried out in accordance with the rules set out in Annex 2 using the first past the post system.

12.8 A member may not vote at an election for a Governor in a public constituency unless within three months before they vote they have made a declaration in the form specified by the Members' Council of Governors as to the basis on which they are entitled to vote as a member of that public constituency.

NHS Governors

12.9 The Secretary, having consulted each Primary Care Trust having the right to appoint NHS Governors, is to adopt a process for agreeing the appointment of NHS Governors with those Primary Care Trusts. As part of that process either:

12.9.1 two NHS Governors are to be formally appointed by one of those Primary Care Trusts; or

12.9.2 one NHS Governor is to be formally appointed by one of those Primary Care Trusts and the other NHS Governors is to be formally appointed by another one of those Primary Care Trusts.

Local Authority Governors

12.10 The Secretary, having consulted each local authority having the right to appoint Local Authority Governors, is to adopt a process for agreeing the appointment of Local Authority Governors with those local authorities.

Partnership Organisation Governors

12.11 The Secretary, having consulted each organisation having the right to appoint Partnership Organisation Governors, is to adopt a process for agreeing the appointment of Partnership Organisation Governor with those Partnership Organisations.

Appointment of Vice Chairman

12.12 The Council of Governors shall appoint one of the Governors to be Vice Chairman of Council of Governors.

Terms of office for Governors

12.13 Elected Governors, with the exception of first appointments where transitional arrangements apply:

12.13.1 shall normally hold office for a period of three years commencing immediately after the annual members' meeting at which their election is announced

12.13.2 subject to the next sub-paragraph are eligible for re-election after the end of that period

12.13.3 may not hold office for more than six consecutive years and shall not be eligible for re-election if they have already held office for more than three consecutive years.

12.14 Appointed Governors:

12.14.1 shall normally hold office for a period of three years commencing immediately after the annual members' meeting at which their appointment is announced;

12.14.2 subject to the next sub-paragraph are eligible for re-appointment after the end of that period;

12.14.3 may not hold office for longer than nine consecutive years and shall not be eligible for re-election if they have already held office for more than six consecutive years.

12.15 For the purposes of these provisions concerning terms of office for Governors "year" means a period commencing immediately after the conclusion of the annual members' meeting and ending at the conclusion of the next annual members' meeting.

Eligibility to be a Governor

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

12.16.1 they are a Director (whether executive or non-executive) of the Trust, or a

governor or director (whether executive or non-executive) of a health service body (unless they are appointed as an appointed Governor by an appointing organisation which is a health service body)

- 12.16.2 they are under 16 years of age
- 12.16.3 they are a member of a Patients' Forum unless that Patients' Forum is a partnership organisation which has appointed them as a Partnership Organisation Governor
- 12.16.4 they are subject to a sex offender order
- 12.16.5 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged
- 12.16.6 they have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it
- 12.16.7 they have within the preceding five years been convicted in the British Islands of any offence, with a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them.
- 12.16.8 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body
- 12.16.9 they are a person whose tenure of office as the Chairman or as a member or Director of a health service body has been terminated on the grounds that his appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest
- 12.16.10 they are on the basis of medical evidence incapable by reason of mental disorder, illness or injury of carrying out the duties of a Governor.

Subject to these provisions any member of any constituency may be elected by the members of that constituency as a Governor of the Trust in accordance with this constitution.

Termination of office and removal of Governors

12.17 A person holding office as a Governor shall immediately cease to do so if:

- 12.17.1 they resign by notice in writing to the Secretary;
- 12.17.2 they fail to attend two consecutive meetings in any Financial Year, unless the other Governors are satisfied that:
 - 12.17.2.1 the absences were due to reasonable causes; and
 - 12.17.2.2 they will be able to start attending meetings of the Council of Governors again within such a period as the other Governors consider reasonable
- 12.17.3 in the case of an elected Governor, they cease to be a member of the constituency or class of the constituency by whom they were elected
- 12.17.4 in the case of an appointed Governor, the appointing organisation terminates the appointment

- 12.17.5 they have refused to undertake any recommended training which Council of Governors requires all Governors to undertake
 - 12.17.6 they have failed to sign and deliver to the Secretary a statement in the form required by Council of Governors confirming acceptance of the Code of Conduct for Governors
 - 12.17.7 being a member of one of the public constituencies, they refuse to sign a declaration in the form specified by Council of Governors as to their qualification to vote as a member of the public constituency for which the election is being held and that they are not prevented from being a member of the Council of Governors nor from voting at a meeting of Council of Governors
 - 12.17.8 they are removed from Council of Governors under the following provisions.
- 12.18 A Governor may be removed from Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting at a General Meeting of the Governors on the grounds that:
- 12.18.1 they have committed a serious breach of the Code of Conduct, or
 - 12.18.2 they have acted in a manner detrimental to the interests of the Trust, and
 - 12.18.3 Council of Governors considers that it is not in the best interests of the Trust for them to continue as a Governor.

Vacancies amongst Governors

- 12.19 Where a vacancy arises on Council of Governors for any reason other than expiry of term of office, the following provisions will apply.
- 12.20 Where the vacancy arises amongst the appointed Governors, the Secretary shall request that the appointing organisation appoints a replacement to hold office for the remainder of the term of office.
- 12.21 Where the vacancy arises amongst the elected Governors, Council of Governors shall be at liberty either:
 - 12.21.1 to call an election within three months to fill the seat for the remainder of that term of office, or
 - 12.21.2 to leave the vacancy open until the next election date provided that the number of Public Governors does not fall below the majority on Council of Governors

Expenses and remuneration of Governors

- 12.22 The Trust will pay reasonable travelling expenses to Governors at such rates as the remuneration committee of Non-Executive Directors decides. These are to be disclosed in the annual report.
- 12.23 Governors are not to receive remuneration.

Meetings of the Council of Governors

- 12.24 The Council of Governors is to meet not less than twice in each financial year. Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least fourteen days written notice of the date and place of every meeting of the Council of

Governors to all Governors. Notices will also be published in local media and on the Trust's website.

- 12.25 Meetings of Council of Governors may be called by the Secretary, or by the Chairman, or by nine Governors of which Public Governors must be in the majority, who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Governors as soon as possible after receipt of such a request. The Secretary shall call a meeting on at least fourteen but not more than twenty-eight days notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chairman or nine Governors, whichever is the case, shall call such a meeting.
- 12.26 All meetings of Council of Governors are to be General Meetings open to members of the public unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chairman may exclude any member of the public from a meeting of Council of Governors if they are interfering with or preventing the proper conduct of the meeting.
- 12.27 Nine Governors including not less than five Public Governors, not less than one Staff Governor and not less than three appointed Governors shall form a quorum.
- 12.28 The Chairman of the Trust or, in his/her absence, a Non Executive Director of the Trust, will preside over meetings of Council of Governors.
- 12.29 The Council of Governors may invite the Chief Executive and/or any other member of the Board of Directors, or a representative of the Trust's financial auditor or other advisors to attend a meeting of the Council of Governors. The Chief Executive and any Executive of the Trust nominated by the Chief Executive shall have the right to attend any meeting of the Council of Governors provided that they shall not be present for any discussion of their individual relationship with the Trust.
- 12.30 The Council of Governors may agree that its members can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.
- 12.31 Subject to this constitution including the following provisions of this paragraph, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes.
- 12.31.1 No resolution of Council of Governors shall be passed if it is opposed by all of the Public Members present.
- 12.31.2 In case of an equality of votes the Chairman or other person presiding at the meeting shall have a casting vote.
- 12.31.3 The removal of the Chairman or another Non Executive Director requires the approval of three-quarters of the Governors.
- 12.32 The Council of Governors may not delegate any of its powers to a committee or sub-committee, but it may appoint committees consisting of Governors, Directors and other persons to assist Council of Governors in carrying out its functions. The Council of Governors may, through the Secretary, request that advisors assist them or any committee they appoint in carrying out their functions.
- 12.33 All decisions taken in good faith at a meeting of Council of Governors or of any committee shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or the appointment of the Governors attending the meeting.

Disclosure of interests

- 12.34 Any Governor who has a material interest in a matter as defined below shall declare such interest to Council of Governors and it shall be recorded in a register of interests and the Governor in question:
- 12.34.1 shall not be present except with the permission of Council of Governors in any discussion of the matter, and
 - 12.34.2 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 12.35 Any Governor who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Governors.
- 12.36 Subject to the exceptions below, a material interest in a matter is:
- 12.36.1 any interest held by a Governor or their spouse or partner in any firm or company or business which, in connection with the matter, is trading with the Trust, or is likely to be considered as a potential trading partner with the Trust;
 - 12.36.2 any directorship of a company;
 - 12.36.3 any interest in an organisation providing health and social care services to the National Health Service;
 - 12.36.4 a position of authority in a charity or voluntary organisation in the field of health and social care;
 - 12.36.5 any connection with any organisation, entity or company considering entering into a financial arrangement with the Trust including but not limited to lenders or banks.
- 12.37 The exceptions which shall not be treated as material interests are as follows:
- 12.37.1 shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange;
 - 12.37.2 an employment contract held by Staff Governors;
 - 12.37.3 an employment contract with their appointing organisation held by NHS Governors, Partnership Organisation Governors and Local Authority Governors.
- 12.38 The Council of Governors is to adopt its own standing orders for its practice and procedures, in particular for its procedures at meetings.
- 12.39 An elected Governor may not vote at a meeting of Council of Governors unless, before attending the meeting, they have made a declaration in the form specified by Council of Governors as to the basis on which they are entitled to vote as a member of the Trust and are not prevented from being a Governor. An elected Governor shall be deemed to have confirmed the declaration upon attending any subsequent meeting of the Council of Governors, and every agenda for meetings of Council of Governors will draw this to the attention of elected Governors.

Council of Governors – Standing Orders

- 12.40 The Standing Orders for the Rules of Procedure of the Council of Governors, as may be varied from time to time is attached at Annex 3

13 BOARD OF DIRECTORS

13.1 The Trust is to have a Board of Directors. It is to consist of Executive and Non Executive Directors.

13.2 The board is to include the following:

13.2.1 Non Executive Directors:

13.2.1.1 The power to appoint the initial Chairman of the Trust is to be exercised by appointing the Chairman of the NHS Trust, if he/she wishes to be appointed. A Chairman appointed in accordance with this provision is to be appointed for the unexpired period of their term of office with the NHS Trust; but if on any such appointment that period is less than 12 months, they are to be appointed for 12 months.

13.2.1.2 A Chairman, who is to be appointed (and removed) by Council of Governors at a general meeting. The appointment of the Chairman requires the approval of a majority of Governors present and voting at the meeting. The removal of the Chairman requires the approval of three quarters of all the Governors

13.2.1.3 A minimum of five Non Executive Directors who are to be appointed (and removed) by the Council of Governors at a general meeting. The appointment of a Non Executive Director requires the approval of a majority of Governors present and voting at the meeting. The removal of a Non Executive Director requires the approval of three quarters of all the Governors.

13.2.2 Executive Directors:

13.2.2.1 A Chief Executive, who is to be appointed (and removed) by the Non Executive Directors (subject in the case of appointment to the approval of the majority of Governors present and voting at a General Meeting) and who shall be the Accounting Officer.

13.2.2.2 A Finance Director, who is to be appointed (and removed) by a committee consisting of the Chairman, Chief executive and other Non Executive Director(s).

13.2.2.3 Not less than 3 other Executive Directors, (one of whom is to be a registered medical practitioner or registered dentist and one of whom is to be a registered nurse or registered midwife unless this requirement is met by reason of qualifications held by the Chief Executive or Finance Director), who are to be appointed (and removed) by a committee consisting of the Chairman, Chief Executive and other Non Executive Director(s)

13.2.2.4 The number of Non Executive Directors shall equal the number of Executive Directors, not including the Chairman.

13.3 Only a member of a public constituency is eligible for appointment as a Non Executive Director.

13.4 Non Executive Directors are to be appointed by Council of Governors using the following procedure:

13.4.1 The power to appoint the other initial Non Executive Directors of the Trust is to be

exercised, so far as possible, by appointing any of the Non Executive Directors of the NHS Trust who wish to be appointed. An initial Non Executive Director appointed in this way does not have to be a member of a public constituency. A Non Executive Director appointed in accordance with this provision is to be appointed for the unexpired period of their term of office with the NHS Trust; but if on any such appointment that period is less than 12 months, they are to be appointed for 12 months.

- 13.4.2 The Council of Governors will maintain a policy for the composition of the Non Executive Directors which takes account of the membership strategy, and which they shall review from time to time and not less than every three years.
- 13.4.3 The Board of Directors may work with external organisations recognised as expert in non executive appointments to identify the skills, experience and candidates required for Non Executive Directors.
- 13.4.4 The Board of Directors will identify appropriate candidates, taking account of the policy maintained by Council of Governors and the skills and experience required.
- 13.4.5 “The Term of Office of a Non Executive Director shall be for a period of three years from the date their appointment is confirmed by the Council of Governors”.

13.5 The power to appoint the initial Chief Executive of the Trust is to be exercised by appointing the Chief Executive of the NHS Trust, if he/she wishes to be appointed. Such appointment does not require the approval of Council of Governors.

Disqualification

13.6 A person may not become or continue as a Director of the Trust if:

- 13.6.1 they are a governor or a director (whether executive or non-executive) of a health service body
- 13.6.2 they are a member of a Patients` Forum.
- 13.6.3 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged
- 13.6.4 they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it
- 13.6.5 they have within the preceding five years been convicted in the British Islands of any offence, with a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them
- 13.6.6 they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986
- 13.6.7 they are a person whose tenure of office as a Chairman or as a Member, Governor or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non attendance at meetings, or for non-disclosure of a pecuniary interest

- 13.6.8 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body
- 13.6.9 in the case of a Non Executive Director, they have failed to fulfil any training requirement established by the Board of Directors or
- 13.6.10 they have failed to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for Directors.

Committees and delegation

- 13.7 The Board of Directors may delegate any of its powers to a committee of Directors or to an Executive Director.
- 13.8 The Board of Directors shall appoint an Audit committee from the Non Executive Directors to monitor the exercise of the financial auditor's functions and perform such monitoring, reviewing and other functions as are appropriate.
- 13.9 The Board of Directors shall appoint a Remuneration Committee of Non Executive Directors to decide the appointment, remuneration and allowances, and the other terms and conditions of office, for the Chief Executive and other Executive Directors.

Meetings of Directors

- 13.10 Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least fourteen days written notice of the date and place of every meeting of the Board of Directors to all Directors.
- 13.11 Meetings of the Board of Directors shall not be open to members of the public unless the Board of Directors decides otherwise in relation to all or part of a meeting. The Chairman may exclude any member of the public from a meeting of the Board of Directors if they are interfering with or preventing the proper conduct of the meeting.
- 13.12 Meetings of the Board of Directors are called by the Secretary, or by the Chairman, or by three Directors who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Directors as soon as possible after receipt of such a request. The Secretary shall call a meeting on at least fourteen but not more than twenty-eight days notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chairman, or three Directors, whichever is the case, shall call such a meeting.
- 13.13 Three directors, including the Chairman (or another Non Executive Director nominated by him/her), another Non Executive Director and an Executive Director shall form a quorum.
- 13.14 The Board of Directors may agree that its Directors can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.
- 13.15 The Chairman of the Trust or, in his/her absence, another Non Executive Director, is to chair meetings of the Board of Directors.
- 13.16 Subject to the following provisions of this paragraph, questions arising at a meeting of the Board of Directors shall be decided by a majority of votes.
 - 13.16.1 In case of an equality of votes the Chairman shall have a second and casting vote.

- 13.16.2 No resolution of the Board of Directors shall be passed by a majority composed only of Executive Directors or Non Executive Directors.
- 13.17 The Board of Directors is to adopt Standing Orders covering the proceedings and business of its meetings. The proceedings shall not however be invalidated by any vacancy of its membership, or defect in a Director's appointment.

Conflicts of Interest of Directors

Any Director who has a material interest in a matter as defined below shall declare such interest to the Board of Directors and it shall be recorded in a register of interests and the Director in question:

- 13.17.1 shall not be present except with the permission of the Board of Directors in any discussion of the matter, and
- 13.17.2 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 13.18 Any Director who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office as a director if required to do so by a majority of the remaining Directors and (in the case of a Non Executive Director) by the requisite majority of Council of Governors.
- 13.19 A material interest in a matter is:
- 13.19.1 any interest (save for a holding of shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange held by a Director or their spouse or partner in any firm or company or business which, in connection with the matter, is trading with the Trust, or is likely to be considered as a potential trading partner with the Trust;
- 13.19.2 any directorship of a company;
- 13.19.3 any interest in an organisation providing health and social care services to the National Health Service;
- 13.19.4 a position of authority in a charity or voluntary organisation in the field of health and social care;
- 13.19.5 any connection with any organisation, entity or company considering entering into a financial arrangement with the Trust including but not limited to lenders or banks.

Remuneration

- 13.20 The remuneration and allowances for Directors are to be disclosed in the Annual Report.

Board of Directors – Standing Orders

- 13.21 The Standing Orders for the practice and procedure of the Board of Directors, as may be varied from time to time, is attached at Annex 4

14 SECRETARY

- 14.1 The Trust shall have a Secretary who may be an employee. The Secretary may not be a Governor, or the Chief Executive or the Finance Director. The Secretary's functions shall include:
- 14.1.1 acting as Secretary to Council of Governors and the Board of Directors, and any committees;
 - 14.1.2 summoning and attending all members' meetings, meetings of the Council of Governors and the Board of Directors, and keeping the minutes of those meetings;
 - 14.1.3 keeping the register of Governors, a Register of Directors' interests and other registers and books required by this constitution to be kept.
 - 14.1.4 having charge of the Trust's seal
 - 14.1.5 publishing to members in an appropriate form information which they should have about the Trust's affairs
 - 14.1.6 preparing and sending to the Independent Regulator and any other statutory body all returns which are required to be made.
- 14.2 The Secretary is to be appointed and removed by the Board of Directors.
- 14.3 Minutes of every members' meeting, of every meeting of Council of Governors and of every meeting of the Board of Directors are to be kept. Minutes of meetings will be read at the next meeting and signed by the Chairman of that meeting. The signed minutes will be conclusive evidence of the events of the meeting.

15 REGISTERS

- 15.1 The Trust is to have:
- 15.1.1 a register of Members showing, in respect of each Member
 - 15.1.1.1 the constituency and (where relevant) the class of constituency to which they belong
 - 15.1.1.2 any address which they have authorised the Trust to use for the purposes of any communications
 - 15.1.2 a register of members of Council of Governors
 - 15.1.3 a register of Directors
 - 15.1.4 a register of interests of Governors
 - 15.1.5 a register of interests of the Directors.
- 15.2 The Secretary shall remove from the register of members the name of any member who ceases to be entitled to be a member under the provisions of this constitution.

16 PUBLIC DOCUMENTS

- 16.1 The following documents of the Trust are to be available for inspection by members of the public free of charge at all reasonable times, and shall be available on the Trust's website:

- 16.1.1 a copy of the current constitution
 - 16.1.2 a copy of the current authorisation
 - 16.1.3 a copy of the latest Annual Accounts and of any report of the financial auditor on them
 - 16.1.4 a copy of the report of any other auditor of the Trust's affairs appointed by Council of Governors
 - 16.1.5 a copy of the latest annual report
 - 16.1.6 a copy of the latest information as to its forward planning
 - 16.1.7 a copy of the Trust's membership development strategy
 - 16.1.8 a copy of the Trust's policy for the composition of Council of Governors and the Non Executive Directors
 - 16.1.9 a copy of any notice given under section 52 of the 2006 Act: (Regulator's notice to failing NHS Foundation Trust).
- 16.2 The registers shall be made available for inspection by members of the public, except in circumstances prescribed by the Public Benefit Corporation (Register of Members) Regulations 2004; and so far as they are required to be available they are to be available free of charge at all reasonable times.
- 16.3 Any person who requests it is to be provided with a copy or extract from any of the above documents or registers. 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.
- 17 Financial Auditor and Other Auditors
- 17.1 The Trust is to have a financial auditor who shall have the responsibilities of the auditor as set out in the 2006 Act and is to provide the financial auditor with every facility and all information which he may reasonably require for the purposes of his functions under the 2006 Act.
 - 17.2 A person may only be appointed as the financial auditor if he (or in the case of a firm of each of its members) is a member of one or more of the bodies referred to in paragraph 23(4) of Schedule 7 to the 2006 Act.
 - 17.3 An officer of the Audit Commission may be appointed as financial auditor with the agreement of the Audit Commission.
 - 17.4 Council of Governors at a General Meeting shall appoint or remove the Trust's financial auditor.
 - 17.5 The financial auditor is to carry out his duties in accordance with Schedule 10 to the 2006 Act.
 - 17.6 The Board of Directors shall nominate financial auditors to be appointed by the members of Council of Governors and may resolve that other auditors be appointed to review and publish a report on any other aspect of the Trust's performance. Any such auditors are to be appointed by the Council of Governors.

18 ACCOUNTS

- 18.1 The Board of Directors shall cause the Trust to keep accounts in such form as the Independent Regulator may with the approval of the Treasury direct.
 - 18.2 The accounts are to be audited by the Trust's financial auditor.
 - 18.3 The following documents will be made available to the Comptroller and Auditor General for examination at his request:
 - 18.3.1 the accounts
 - 18.3.2 any records relating to them and
 - 18.3.3 any report of the financial auditor on them.
 - 18.4 The accounting officer shall cause the Trust to prepare in respect of each financial year annual accounts in such form as the Independent Regulator may with the approval of the Treasury direct.
 - 18.5 In preparing its annual accounts, the accounting officer shall cause the Trust to comply with any guidance given by the Independent Regulator with the approval of the Treasury as to:
 - 18.5.1 the methods and principles according to which the accounts are to be prepared
 - 18.5.2 the information to be given in the accountsand shall be responsible for the functions of the Trust as set out in paragraph 25 of Schedule 7 to the 2006 Act.
 - 18.6 The annual accounts, any report of the financial auditor on them, and the annual report are to be presented to Council of Governors at a General Meeting.
 - 18.7 The accounting officer shall cause the Trust to:
 - 18.7.1 lay a copy of the Annual Accounts, and any report of the financial auditor on them, before Parliament; and
 - 18.7.2 once it has done so, send copies of those documents to the Independent Regulator.
- 19 ANNUAL REPORTS AND FORWARD PLANS
- 19.1 The Trust is to prepare Annual Reports and send them to the Independent Regulator.
 - 19.2 The reports are to give:
 - 19.2.1 information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its public constituencies and the classes of the staff constituency is representative of those eligible for such membership; and
 - 19.2.2 any other information the Independent Regulator requires.
 - 19.3 The Trust is to comply with any decision the Independent Regulator makes as to:
 - 19.3.1 the form of the reports

19.3.2 when the reports are to be sent to him

19.3.3 the periods to which the reports are to relate.

19.4 The Trust is to give information as to its forward planning in respect of each financial year to the Independent Regulator. The document containing this information is to be prepared by the Directors, and in preparing the document the Board of Directors must have regard to the views of Council of Governors.

20 INDEMNITY

20.1 Members of Council of Governors and the Board of Directors and the Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

20.2 The Trust may purchase and maintain insurance against this liability for its own benefit and the benefit of members of Council of Governors and the Board of Directors and the Secretary.

21 EXECUTION OF DOCUMENTS

21.1 A document purporting to be duly executed under the Trust's seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

21.2 The Trust is to have a seal, but this is not to be affixed except under the authority of the Board of Directors.

22 DISPUTE RESOLUTION PROCEDURES

22.1 Every unresolved dispute which arises out of this constitution between the Trust and:

22.1.1 an existing member or

22.1.2 any person aggrieved who has ceased to be a member within the three months prior to the date of the dispute or

22.1.3 any person bringing a claim under this constitution or

22.1.4 an office holder or post holder of the Trust is to be submitted to an arbitrator agreed by the parties or in the absence of agreement to be nominated by the Chief Executive. The arbitrator's decision will be binding and conclusive on all parties.

23 AMENDMENT OF THE CONSTITUTION

23.1 No amendment shall be made to this constitution unless:

23.1.1 being an amendment to paragraphs 2,3,4,5,6,7,8 or 11 it has been approved by two thirds of Governors present and voting at a meeting of Council of Governors duly called in accordance with this constitution

23.1.2 being an amendment to any other paragraph, it has been approved by a majority of Governors present and voting at a meeting of Council of Governors duly called in accordance with this constitution and

23.1.3 it has been approved by the Independent Regulator.

24 MERGERS

The Trust may in accordance with section 56 of the 2006 Act apply to the Regulator jointly with another NHS Foundation Trust or an NHS Trust for authorisation of the dissolution of the Trusts and the transfer of some or all of their property and liabilities to a new NHS Foundation Trust established under that section. Such application shall only be made if a majority of Governors present and voting at a meeting duly called in accordance with this constitution shall have approved the making of such an application.

25 DISSOLUTION OF THE TRUST

The Trust may not be dissolved except by order of the Secretary of State for Health, in accordance with the 2006 Act.

26 HEAD OFFICE AND WEBSITE

26.1 The Trust's head office is at Wexham Park Hospital, Wexham, Slough, Berkshire SL2 4HL or such other place as the Board of Directors shall decide.

26.2 The Trust will display its name and website on the outside of its head office and every other place at which it carries on business, and on its business letters, notices, advertisements, other publications.

27 NOTICES

27.1 Any notice required by this constitution to be given shall be given in writing or shall be given using electronic communications to an address for the time being notified for that purpose. "Address" in relation to electronic communications includes any number or address used for the purposes of such communications.

27.2 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be treated as delivered 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, 48 hours after it was sent.

Transition Schedule

1. Council of Governors

1.1 Not less than one third of the initial Public Governors and of the Staff Governors who polled the highest votes will serve a term of office ending at the conclusion of the annual members' meeting in 2010; not less than one third of the initial Public Governors and of the Staff Governors who polled the next highest number of votes will serve a term of office ending at the conclusion of the annual members' meeting in 2009; the remaining initial Public Governors and Staff Governors will serve a term of office ending at the conclusion of the annual members' meeting in 2008.

1.2 There will be no elections or appointments to take effect at the conclusion of the annual members' meeting in 2007, unless any of the places on Council of Governors remain unfilled following the initial elections held before the Trust was authorised.

1.3 For the purposes of eligibility to seek re-election or to be reappointed as Governor under this constitution, the period between their election or appointment as initial Governor and the conclusion of the annual members' meeting in 2008 shall be treated as a year.

2 Board of Directors

2.1. The Chairman of the NHS Trust holding office on the date of authorisation to operate as a Foundation Trust will be entitled to serve out the term of office for which he/she was appointed or one year from that date (whichever is longer) as Chairman of the

NHS Trust.

- 2.2. The Non Executive Directors of the NHS Trust holding office on the date of authorisation to operate as a Foundation Trust will be entitled to serve out the term of office for which they were appointed or one year from that date (whichever is longer) as Non Executive Directors of the NHS Trust. An initial Non-Executive Director appointed in this way does not have to be a member of a public constituency.
 - 2.3. The Chief Executive of the NHS Trust holding the post on the date of authorisation to operate as a Foundation Trust will be entitled to serve out the term of his/her contract for which he/she was appointed as Chief Executive of the NHS Trust. Such appointment does not require the approval of the Council of Governors.
 - 2.4. The initial remuneration and allowances of the initial executive Directors are to be determined by a committee of the non-executive Directors of the NHS Trust.
 - 2.5. The Board of Directors of the NHS Trust shall appoint the first Secretary of the Trust.
3. Approval of Membership Strategy and Election Procedures
- 3.1. The Board of Directors of the NHS Trust will prepare and approve the first membership strategy, and the first policy for the composition of Council of Governors and of the Non Executive Directors.
 - 3.2. These will be reviewed by Council of Governors following the election and appointment of the initial Governors.
 - 3.3. For the purpose of the period before the NHS Trust becomes the Foundation Trust:
 - 3.3.1. elections shall be carried out in accordance with the rules set out in Annex 2 using the first past the post method of voting
 - 3.3.2. The Board of Directors will prepare and approve:
 - 3.3.2.1. A Membership application form
 - 3.3.2.2. Forms of declaration required by sections 60 (1), (2) and (3) of the 2006 Act;
 - 3.3.2.3. A form confirming acceptance of a Code of Conduct for Governors
 - 3.3.3. The Chief Executive will oversee the arrangements for consulting with and agreeing the appointments of appointed Governors and may delegate all or part of the arrangements to the Council of Governors Secretary in his/her discretion as he/she sees fit.
 - 3.3.4. The Council of Governors Secretary will make any final decision about the class of the staff constituency of which an individual is entitled to be a member.

ANNEX 1 – Areas of the Trust ANNEX 2 – Elections Rules ANNEX 3 – Rules of Procedures of the Council of Governors ANNEX 4 – Standing Orders of the Board of Directors ANNEX 1 AREAS OF THE TRUST

Slough
Windsor and Maidenhead
Bracknell Forest
Buckinghamshire

Outer Catchment area to include the rest of England

ANNEX 2 ELECTION RULES

Heatherwood and Wexham Park Hospitals NHS Foundation Trust Members' Council of Governors Election Rules

Part 1 - Interpretation

1. Interpretation

Part 2 – Timetable for election

- 1 Timetable
- 2 Computation of time

Part 3 – Returning officer

- 1 Returning officer
- 2 Staff
- 3 Expenditure
- 4 Duty of co-operation

Part 4 - Stages Common to Contested and Uncontested Elections

- 1 Notice of election
- 2 Nomination of candidates
- 3 Candidate's consent and particulars
- 4 Declaration of interests
- 5 Declaration of eligibility
- 6 Signature of candidate
- 7 Decisions as to validity of nomination papers
- 8 Publication of statement of nominated candidates
- 9 Inspection of statement of nominated candidates and nomination papers
- 10 Withdrawal of candidates
- 11 Method of election

Part 5 – Contested elections

- 1 Poll to be taken by ballot
- 2 The ballot paper
- 3 The declaration of identity

Action to be taken before the poll

- 1 List of eligible voters
- 2 Notice of poll
- 3 Issue of voting documents
- 4 Ballot paper envelope and covering envelope
- 5 Eligibility to vote

- 6 Voting by persons who require assistance
- 7 Spoilt ballot papers
- 8 Lost ballot papers
- 9 Issue of replacement ballot paper
- 10 Declaration of identity for replacement ballot papers

The poll Procedure for receipt of envelopes

- 1 Receipt of voting documents
- 2 Validity of ballot paper
- 3 Declaration of identity but no ballot paper
- 4 Sealing of packets

Part 6 - Counting the votes

stv36. Interpretation of Part 6

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

Part 7 – Final proceedings in contested and uncontested elections

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

Part 8 – Disposal of documents

- 1 Sealing up of documents relating to the poll
- 2 Delivery of documents
- 3 Forwarding of documents received after close of the poll
- 4 Retention and public inspection of documents
- 5 Application for inspection of certain documents relating to election

Part 9 – Death of a candidate during a contested election

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

Part 10 – Election expenses and publicity

Expenses

- 1 Expenses incurred by candidates
- 2 Expenses incurred by other persons
- 3 Personal, travelling, and administrative expenses

Publicity

- 1 Publicity about election by the corporation
- 2 Information about candidates for inclusion with voting documents
- 3 Meaning of “for the purposes of an election”

Part 11 – Questioning elections and irregularities

61. Application to question an election

Part 12 – Miscellaneous

- 1 Secrecy
- 2 Prohibition of disclosure of vote
- 3 Disqualification
- 4 Delay in postal service through industrial action or unforeseen event

Part 1 - Interpretation

1. Interpretation – (1) In these rules, unless the context otherwise requires - “corporation” means the public benefit corporation subject to this constitution; “election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the board of governors; “the regulator” means the Independent Regulator for NHS foundation trusts; and “the 2003 Act” means the Health and Social Care (Community Health and Standards) Act

2003.

(2) Other expressions used in these rules and in Schedule 1 to the Health and Social Care (Community Health and Standards) Act 2003 have the same meaning in these rules as in that Schedule.

Part 2 – Timetable for election

- 1 Timetable - The proceedings at an election shall be conducted in accordance with the following timetable.
- 2 Computation of time - (1) In computing any period of time for the purposes of the

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

timetable -

- (a) a Saturday or Sunday;

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

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

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

Part 3 – Returning officer

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

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

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

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

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

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

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

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

(2) The returning officer -

- (a) is to supply any member of the corporation with a nomination paper, and

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

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

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

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

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

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

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

12. Declaration of eligibility – (1) The nomination paper must include a declaration made by the candidate –

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

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

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

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

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

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

- (a) that the paper is not received on or before the final date for return of nomination papers, as specified in the notice of the election,
- (b) that the paper does not contain the candidate's particulars, as required by

rule 10;

(c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,

(d) that the paper does not include a declaration of eligibility as required by rule 12, or

(e) that the paper is not signed and dated by the candidate, as required by rule 13.

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

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

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

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

(2) The statement must show –

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

(b) the declared interests of each candidate standing,

as given in their nomination paper.

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

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

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

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

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

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

(2) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the

board of governors, those candidates are to be declared elected in accordance with Part 7 of these rules.

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

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

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

Part 5 – Contested elections

19. Poll to be taken by ballot – (1) The votes at the poll must be given by secret ballot.

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

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

(2) Every ballot paper must specify –

(a) the name of the corporation,

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

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

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

(e) instructions on how to vote,

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

(g) the contact details of the returning officer.

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

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

21. The declaration of identity (public and patient constituencies) – (1) A declaration of identity must be issued with each ballot paper.

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

(a) that the voter is the person to whom the ballot paper was addressed,

(b) that the voter has not marked or returned any other voting paper in the election, and

(c) for a member of the public or patient constituency, of the particulars of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

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

(a) the name of the voter,

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

(5) The declaration of identity must caution the voter that, if it is not returned with the

ballot paper, or if it is returned without being correctly completed, the voter's ballot paper may be declared invalid.

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

Action to be taken before the poll

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

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

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

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

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

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

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

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

- (2) The covering envelope is to have –
 - (a) the address for return of the ballot paper printed on it, and
 - (b) pre-paid postage for return to that address.
- (3) There should be clear instructions, either printed on the covering envelope or elsewhere, instructing the voter to seal the following documents inside the covering envelope and return it to the returning officer –
 - (a) the completed declaration of identity if required, and
 - (b) the ballot paper envelope, with the ballot paper sealed inside it.

The poll

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

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

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

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

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

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

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

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

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

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

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

- (a) is satisfied as to the voter’s identity,
- (b) has no reason to doubt that the voter did not receive the original ballot paper, and

(c) has ensured that the declaration of identity if required has not been returned.

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

- (a) the name of the voter, and

- (b) the details of the unique identifier of the replacement ballot paper.

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

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

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

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

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

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

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

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

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

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

Procedure for receipt of envelopes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 6 - Counting the votes

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

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

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

“deemed to be elected” means deemed to be elected for the purposes of counting of votes

but without prejudice to the declaration of the result of the poll,

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

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule stv44(4) below,

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

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

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

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

“stage of the count” means –

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

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

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

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

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

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

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

(2) The returning officer, while counting and recording the number of ballot papers

and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper.

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

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

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

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

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

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

Fpp39. Rejected ballot papers – (1) Any ballot paper –

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

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

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

(3) A ballot paper on which a vote is marked –

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

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

(4) The returning officer is to –

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to

be counted, and

(b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

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

(a) does not bear proper features that have been incorporated into the ballot paper,

(b) voting for more candidates than the voter is entitled to,

(c) writing or mark by which voter could be identified, and

(d) unmarked or rejected because of uncertainty,

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

stv40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

stv41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

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

(3) of rule stv44 has been complied with.

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

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

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

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

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

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

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

(b) is calculated by dividing the surplus of the candidate from whom the votes are

being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

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

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

(6) The returning officer is, in accordance with this rule and rule stv44 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

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

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

whichever is the less.

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

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

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

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

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

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

(a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and

(b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

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

- (a) record the total value of the votes transferred to each candidate,
- (b) add that value to the previous total of votes recorded for each candidate and record the new total,
- (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously

recorded total of non-transferable votes, and

(d) compare—

(i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

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

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

stv44. Exclusion of candidates – (1) If—

(a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule stv45 below, one or more vacancies remain to be filled,

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

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

(a) ballot papers on which a next available preference is given, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

stv46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule stv42(10) above.

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

(3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates

at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

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

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

Part 7 – Final proceedings in contested and uncontested elections

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

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the Members' 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 Heatherwood and Wexham Park Hospitals NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or

(ii) in any other case, to the chairman of the corporation; and

(c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

(a) the total number of votes given for each candidate (whether elected or not), and

(b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

available on request.

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

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

(b) give notice of the name of each candidate who he or she has declared elected –

(i) where the election is held under a proposed constitution pursuant to powers conferred on the Heatherwood and Wexham Park Hospitals NHS Trust by section 4(4) of the 2003 Act, to the chairman of the NHS Trust, or

(ii) in any other case, to the chairman of the corporation, and

(c) give public notice of the name of each candidate who he or she has declared elected.

(2) The returning officer is to make –

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

available on request.

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

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

Part 8 – Disposal of documents

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

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

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

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

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

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

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

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

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

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

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

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

53. Application for inspection of certain documents relating to an election – (1) The corporation may not allow the inspection of, or the opening of any sealed packet containing –

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

by any person without the consent of the regulator.

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

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

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

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

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

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

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

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

Part 9 – Death of a candidate during a contested election

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

- (a) countermand notice of the poll, or, if ballot papers have been issued, direct that the poll be abandoned constituency or class, and
- (b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, computed in accordance with rule 3 of these rules, beginning with the day that the poll was countermanded or abandoned.

(2) Where a new election is ordered under paragraph (1), no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned.

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

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

(5) The returning officer is to –

- (a) count and record the number of ballot papers that have been received, and
- (b) seal up the ballot papers into packets, along with the records of the number of ballot papers.

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

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

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

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

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –

- (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
- (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences

marked for the candidate who has died.

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

Part 10 – Election expenses and publicity

Election expenses

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

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

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

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

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

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

Publicity

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

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

as it considers necessary.

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

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

(3) Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in

organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

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

(2) The information must consist of –

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

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

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

Part 11 – Questioning elections and the consequence of irregularities

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

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

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

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

(4) The application must –

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

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

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

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

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

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

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

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

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

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

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

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

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

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

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

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

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

ANNEX 3 – Standing Orders Rules of Procedure for the Council of Governors

COUNCIL OF GOVERNORS

Rules of Procedure for the Council of Governors

These rules of procedure shall be agreed at the first meeting of the Council of Governors. Subsequent amendments will be made in accordance with Rule 18.

2. Meetings

General meetings of the Council of Governors must take place not less than twice in each financial year. Meetings will normally be held in April, July, October, and January of each year. The Secretary will publish the dates, times and locations of meetings for the year six months in advance. Other, or emergency, Governors' meetings may be called in accordance with the Constitution, giving at least 14 days notice.

3. Agendas and papers

Agendas and supporting papers will normally be issued to arrive with Governors no later than 7 days in advance of the meeting. Draft minutes of the previous meeting will be circulated with these papers for approval as a specific agenda item.

4. Reports from the Executive Directors

A Governor may ask any question through the Chairman without notice upon a report from an Executive Director, or other officer of the Trust, when that item is being received or under consideration by the Council. Unless the Chairman decides otherwise no statements will be made other than those, which are strictly essential to define the question, which should last no longer than 3 minutes.

A Governor who has put such a question may also put one supplementary question but only if the supplementary question arises directly out of the reply given. The chairman may reject any question from any Governor if in his or her opinion the question is substantially the same as a question, which has already been put to that meeting or a previous meeting of Council. A Governor requesting an item for consideration by the Council must submit the request not less than 21 days in advance of the meeting.

5. Questions on Notice at Council of Governors Meetings

Questions on notice are defined as questions from Governors about matters, which are directly in relation to matters over which the Council has powers or duties or which affects the area covered by the Trust. Subject to the paragraph 6 a Governor of the Council may ask:

- The Chairman
- Another Governor
- An Executive Director
- The Chairman of any body who may be present

6. Notice of Questions

A Governor may only ask a question under paragraph 5 if either:

(a) they have given at least 14 working days notice in writing of the question to the Secretary. For the purposes of this Procedure Rule, receipt of any such questions via electronic means is considered acceptable; or

(b) the question relates to urgent matters; they have the consent of the person to whom the question is to be put, and the content of the question is given to the Secretary by 10:00 on the day of the meeting (if the meeting is scheduled for the afternoon) or by 14:00 on the preceding day (if the meeting is scheduled for the morning). Urgent is defined as a matter which will adversely affect the Trust within the next 7 days.

7. Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Trust or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioners;
- (c) a brief oral answer supplemented by a written answer circulated later to the questioner.

8. Supplementary Question

A Governor asking a question under 5 above may ask one supplementary question (lasting no longer than 3 minutes) without notice of the person to whom the first question was asked. The supplemental question must arise directly out of the reply.

9. Motions, amendments or alterations or withdrawals of motions - General Provisions

The rules which follow in this part of the Rules of Procedure in relation to the moving, amendment, alteration or withdrawal of motions shall in no way operate at any time to avoid or circumvent compliance with any other approved rules of committee and therefore shall be construed accordingly.

10. Motions on Notice

10.1 Notice Motions may only be submitted by Governors and must be received by the Secretary in writing at least two weeks prior to the meeting at which they are to be considered, together with any relevant supporting paper. Except for motions, which can be moved without notice under Rule 11, written notice of every motion signed or transmitted by at least two Governors, is required. For the purposes of this Procedure Rule, receipt of any such motions via electronic means is considered acceptable.

10.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Governor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

10.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the area covered by the Trust.

11. Motions without Notice

The following motions may be moved without notice:

- (a) in relation to the accuracy of the minutes;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a working group arising from an item on the agenda for the meeting;
- (e) to receive reports or adopt recommendations made by the Board of Directors;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;

(l) to suspend a particular Council Procedure Rule; a rule may be suspended by motion on notice or without notice if at least one half of the whole number of Governors of the Council are present. Suspension can only be for the duration of the meeting.

(m) to exclude the public and press in accordance with the Access to Information Rules;

(n) to not hear further a Governor, or to exclude them from the meeting. If a Governor persistently disregards the ruling of the chairman by behaving improperly or offensively or deliberately obstructs business, the chairman may move that the Governor be not heard further. If seconded, the motion will be voted on without discussion. If the Governor

continues to behave improperly after such a motion is carried, the chairman may move that either the Governor leaves the meeting room or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

(o) to give the consent of the Council where its consent is required by the Constitution.

12. Urgent Motions

Urgent motions may only be submitted by a Governor and must be received by the Secretary in writing before the commencement of the meeting. Acceptance of such motions for inclusion on the Agenda will be at the discretion of the Chair. Urgent is defined as a matter which will adversely affect the Trust in the next seven days.

13. Any Other Business

There will not be an agenda item entitled "Any Other Business". Instead, there will be an Item for "Motions or Questions on Notice", which are subject to Rules 6a and 10 above. There will be another item for "Urgent Motions or Questions", which are subject to Rules 6b and 12 above.

14. Speaking Rules

This rule applies to all forms of speech/debate by Governors or members of the public in relation to the motion or question under discussion.

14.1 Content and length of speeches

Approval to speak will be given by the Chairman. Governors will be heard first, and after their debate is complete the Chairman will ask for any questions/comments from members of the public. Speeches must be directed to the motion or question under discussion or to a personal explanation or point of order. Unless in the opinion of the Chairman it would not be desirable or appropriate to time limit speeches on any topic to be discussed having regard to its nature complexity or importance, no proposal speech may exceed five minutes. Any reply may not exceed three minutes. In the interests of time the Chairman may limit the number of replies, which are heard.

14.2 When a person may speak again:

A person who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Governor;
- (b) to move a further amendment (Governors only) if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another Governor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order.

14.3 Identification All speakers must state their name and role before starting to speak to ensure the accuracy of the minutes.

15. Attendance

Governors who are unable to attend the Council of Governors meeting should advise the Secretary in advance of the meeting so that their apologies may be submitted.

16. Quorum

The Constitution states that nine Governors including not less than five Public Governors, not less than one Staff Governor and not less than three appointed Governors shall form a quorum.

17. Chairman

The Council of Governors will be chaired as follows:

By the Chairman of the Trust, or in their absence:

By the Deputy Chairman of the Trust, or in their absence:

By another Non-Executive Director

If the Council of Governors is dealing with matters of succession and/or remuneration of the Chairman, then the Vice-Chairman of the Council of Governors will preside.

18. Amendments to the Rules of Procedure

Amendments to the Rules of Procedure are an amendment of the Constitution and section 37 of the Act provides that an NHS Foundation Trust may make amendments of its Constitution with the approval of the Regulator.

19. Disputes between the Council of Governors and Board of Directors

In situations where any dispute arises between the Board of Directors and the Council of Governors, then the decision of the Chairman shall normally be final. However there may be circumstances where the Chairman feels unable to decide owing to a conflict of interest. In such a situation, the Chairman will initiate an independent review by the Deputy Board Chairman (Senior Independent Non Executive Director) to investigate and make recommendations.

In the unlikely event of a total breakdown of understanding between the Council of Governors and the Board, the situation will be reviewed & resolved through an Arbitration Panel comprising:

an independent qualified arbitrator

a qualified legal advisor

a Chairman of a Foundation Trust. The choice of individual panel members will be agreed by both the Council and Board.

20. Committee Meetings

The Council of Governors have established the following the Committees:

Nominations

Remuneration

Communications

Membership

The terms of reference of each committee is approved by the Council of Governors and any changes must be agreed by a majority of Governors attending a Council meeting.

Procedures for standing as a Committee member and elections to Committees are set out in the "Nominations to Committees Notes for Guidance" agreed by the Council. Committee Members will elect a Chairman and Vice Chairman from amongst the Committee membership to serve for a

period of one year. Chairmen and Vice Chairmen may seek re-election after they have served their term of office.

Each Committee must have a minimum of five members and a maximum of seven members. The quorum for a Committee meeting is three members.

ANNEX 4 - STANDING ORDERS FOR THE BOARD OF DIRECTORS

HEATHERWOOD & WEXHAM PARK HOSPITALS NHS FOUNDATION TRUST

STANDING ORDERS OF THE BOARD OF DIRECTORS

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Regulatory Framework

The Heatherwood and Wexham Park Hospitals NHS Foundation Trust (the Corporation) is a statutory body which became a public benefit corporation on 1 June 2007 following its approval as an NHS Foundation Trust by the Independent Regulator of NHS Foundation Trusts (Independent Regulator) pursuant to the National Health Service Act 2006

The principal places of business of the Corporation are at Wexham Hospital, Wexham Street, Slough, Berks SL2 4HL, and Heatherwood Hospital, London Road, Ascot SL5 8AA. The Corporation's headquarters is located at Wexham Park Hospital, Wexham Street, Slough Berks SL2 4HL.

The Corporation is governed by Acts of Parliament, mainly the 2006 Act, by its Constitution and by the terms of its Authorisation granted by the Independent Regulator of Foundation Trusts (the Regulatory Framework). The functions of the Corporation are conferred by the Regulatory Framework. The Regulatory Framework requires the Board of Directors of the Corporation to adopt Standing Orders for the regulation of its proceedings and business.

1. INTERPRETATION

1.1 Save as otherwise permitted by law and subject to the Constitution, at any meeting the Chairman (advised by the Secretary and Chief Executive) shall be the final authority on the interpretation of Standing Orders, with a right of appeal to the Board of Directors, whose decision shall be final and binding except in case of manifest error.

1.2 Any expression to which a meaning is given in the National Health Service Act 2006 or regulations made under it shall have the same meaning in this interpretation and in

addition:

1.2.1 "Accounting Officer" means the Corporation's Officer to whom the Constitution delegates some of the Corporation's functions in relation to accounts. For this Corporation it shall be the Chief Executive.

1.2.2 "Council of Governors" means the Board of Governors of the Corporation as defined in the 2006 Act as constituted by the Constitution.

1.2.3 "Board of Directors" and (unless the context otherwise requires) "Board", means the Chairman, executive and Non-Executive directors of the Corporation collectively as a body.

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

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

1.2.6 "Chief Executive" means the chief executive officer of the Corporation.

1.2.7 "Commissioning" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Corporation within available resources.

1.2.8 "Committee" means a committee of the Board of Directors.

1.2.9 "Constitution" means the constitution of the Corporation.

1.2.10 "Committee members" means the directors formally appointed by the Board to sit on or to chair specific committees.

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

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

1.2.13 "Executive Director" means a Member of the Board of Directors who holds an executive office of the Corporation.

1.2.14 "Member of the Board" means an executive or Non-Executive Director. (Member of the Board in relation to the Board of Directors includes its Chairman.)

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

1.2.16 "Non-Executive Director" means a Member of the Board of Directors who does not hold an executive office of the Corporation.

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

1.2.18 "SFIs" means Standing Financial Instructions.

1.2.19 "SOs" means Standing Orders.

1.2.20 "Secretary" means the Corporation's Foundation Trust Secretary appointed by the Board of Directors with responsibility for the administration of corporate governance. In particular, the Secretary will:

Ensure good information flows within the Board and its committees and between senior management, Non-Executive Directors and Governors;

Ensure that Board procedures of both the Board of Directors and the Council of Governors are complied with;

Advise the Board of Directors and the Council of Governors (through the chairman) on all governance matters; and

Be available to give advice and support to individual directors, particularly in relation to the induction of new directors and assistance with professional development.

1.2.21 "Deputy Chairman" means the Non-Executive Director appointed from amongst the Non-Executive Directors as Deputy Chairman by the Board to take on the Chairman's duties if the Chairman is absent for any reason.

1.2.22 "Senior Independent Director" means the Non Executive Director appointed by the Board of Directors from one of the independent non-executive directors, in consultation with the Council of Governors, who is available to members and Governors if they have concerns which contact through the normal channels of chairman, chief executive or finance director has failed to resolve or for which such contact is inappropriate. The senior independent director could be the Deputy Chairman.

1.2.23 "Independent Regulator" means the Independent Regulator of NHS Foundation Trusts.

2 THE BOARD OF DIRECTORS

2.1 All business shall be conducted in the name of the Corporation.

2.2 All funds received in trust shall be held in the name of the Corporation as corporate trustees appointed by the Secretary of State pursuant to the Regulations.

2.3 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in Reservation of Powers to the Board and have effect as if incorporated into the Standing Orders.

2.4 Composition of the Board – The composition of the Board will be in accordance with the Constitution of the Corporation.

2.5 Appointment of the Chairman and other Non-Executive Directors-The Chairman and the other Non-Executive Directors are appointed by the Council of Governors.

2.6 Appointment of the Executive Directors - The Chief Executive is appointed by the Non Executive Directors, subject to the approval of the Council of Governors. The other Executive Directors are appointed by a committee consisting of the Chairman, the other Non-Executive Directors and the Chief Executive.

2.7 Terms of Office of the Chairman and other Members of the Board -The regulations setting out the period of tenure of office of the Chairman and other Members of the Board and for the termination or suspension of office of the Chairman and other Members of the Board are contained in the Constitution of the Corporation.

2.8 Appointment and Powers of Deputy Chairman - Subject to SO 2.10 below, the Chairman and other Members of the Board may appoint one of their number, who is also a Non-Executive Director, to be Deputy Chairman, for such period, not exceeding the remainder of his term as a Member of the Board, as they may specify on appointing him.

2.9 Any Member of the Board so appointed may at any time resign from the office of Deputy Chairman by giving notice in writing to the Chairman. The Chairman and other Members of the Board may thereupon appoint another Member of the Board as Deputy Chairman in accordance with the provisions of Standing Order 2.8

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

his duties, be taken to include references to the Deputy Chairman.

2.11 Appointment and Powers of Senior Independent Director - Subject to SO 2.13 below, the Chairman (in consultation with the Non-Executive Directors and the Council of Governors) may appoint any Member of the Board, who is also a Non-Executive Director, to be the Senior Independent Director, for such period, not exceeding the remainder of his term as a Member of the Board, as they may specify on appointing him. The Senior Independent Director shall perform the role set out in the Code of Governance for Foundation Trusts, as may be amended from time to time by resolution of the Board. The Senior Independent Director and the Deputy Chairman of the Board shall not be the same person.

2.12 Any Member of the Board so appointed may at any time resign from the office of Senior Independent Director by giving notice in writing to the Chairman. The Chairman (in consultation with the Non-Executive Directors and the Council of Governors) may thereupon appoint another Member of the Board as Senior Independent Director in accordance with the provisions of Standing Order 2.12. the composition of the Board shall be:

Non Executive Directors:

A Chairman,

- A minimum of five Non Executive Directors

Executive Directors:

A Chief Executive.

A Finance Director

Not less than 3 other Executive Directors, (one of whom is to be a registered medical practitioner or registered dentist and one of whom is to be a registered nurse or registered midwife unless this requirement is met by reason of qualifications held by the Chief Executive or Finance Director

The number of Non Executive Directors shall equal the number of Executive Directors, not including the Chairman.

3. MEETINGS OF THE BOARD

3.1 Calling Meetings - Ordinary meetings of the Board shall be held at such times and places as the Board may determine.

3.2 The Chairman of the Corporation may call a meeting of the Board at any time. If the Chairman refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Members of the Board, has been presented to him, or if, without so refusing, the Chairman does not call a meeting within seven days after such requisition has been presented to him at the Corporation's Headquarters, such one third or more Members of the Board may forthwith call a meeting.

3.3 Notice of Meetings - Before each meeting of the Board, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by an officer authorised by the Chairman to sign on his behalf, shall be delivered to every Member of the Board, or sent by post to the usual place of residence of such Member of the Board, so as to be available to him at least three clear days

before the meeting.

3.4 Want of service of the notice on any Member of the Board shall not affect the validity of a meeting.

3.5 In the case of a meeting called by Members of the Board in default of the Chairman, the notice shall be signed by those Members of the Board and no business shall be transacted at the meeting other than that specified in the notice.

3.6 Agendas will be sent to Members of the Board 6 days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be dispatched no later than three clear days before the meeting, save in emergency. Failure to serve such a notice on more than three Members of the Board will invalidate the meeting. A notice shall be presumed to have been served one day after posting.

3.7 Setting the Agenda - The Board may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders.)

3.8 A Member of the Board desiring a matter to be included on an agenda shall make his request in writing to the Chairman at least 10 clear days before the meeting. The request should include appropriate supporting information. Requests made less than 10 clear days before a meeting may be included on the agenda at the discretion of the Chairman.

3.9 Petitions - Where a petition has been received by the Corporation the Chairman of the Board shall include the petition as an item for the agenda of the next Board meeting.)

3.10 Chairman of Meeting - At any meeting of the Board, the Chairman of the Board, if present, shall preside. If the Chairman is absent from the meeting the Deputy Chairman, if there is one and he is present, shall preside. If the Chairman and Deputy Chairman are absent such Non-Executive Director as the Members of the Board present shall choose shall preside.

3.11 If the Chairman is absent temporarily on the grounds of a declared conflict of interest the Deputy Chairman, if present, shall preside. If the Chairman and Deputy Chairman are absent, or are disqualified from participating, such Non-Executive director as the Members of the Board present shall choose shall preside.

3.12 Notices of Motion - A Member of the Board desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the Chairman, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice, on any business mentioned on the agenda.

3.13 Withdrawal of Motion or Amendments - A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chairman.

3.14 Motion to Rescind a Resolution - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Member of the Board who gives it and also the signature of 4 other Board members. When any such motion has been disposed of by

the Board, it shall not be competent for any member other than the Chairman to propose a motion to the same effect within 6 months, however the Chairman may do so if he considers it appropriate.

3.15 Motions - The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

3.16 When a motion is under discussion or immediately prior to discussion it shall be open to a Member of the Board to move:

an amendment to the motion.

the adjournment of the discussion or the meeting.

that the meeting proceed to the next business. (*)

the appointment of an ad hoc committee to deal with a specific item of business.

that the motion be now put. (*)

* In the case of sub-paragraphs denoted by (*) above to ensure objectivity motions may only be put by a Member of the Board who has not previously taken part in the debate and who is eligible to vote.

No amendment to the motion shall be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the motion.

3.17 Chairman's Ruling - Statements of Members of the Board made at meetings of the Board shall be relevant to the matter under discussion at the material time and the decision of the Chairman of the meeting on questions of order, relevancy, regularity and any other matters shall be final.

3.18 Voting - Every question at a meeting shall be determined by a majority of the votes of the Chairman of the meeting and Members of the Board present and voting on the question and, 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.

3.19 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 Members of the Board present so request.

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

3.21 If a Member of the Board so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).

3.22 In no circumstances may an absent Member of the Board vote by proxy. Absence is defined as being absent at the time of the vote.

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

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

3.25 Minutes shall be circulated in accordance with members' wishes.

3.26 Waiver of Standing Orders - Except where this would contravene any statutory provision or any guidance issued by the Independent Regulator, any one or more of the Standing Orders may be waived at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and one Non-Executive Director, and that a majority of those present vote in favour of suspension.

3.27 A decision to waive Standing Orders shall be recorded in the minutes of the meeting.

3.28 The Audit Committee shall review every decision to waive Standing Orders.

3.29 Suspension of Standing Orders - Except where this would contravene any statutory provision or any guidance issued by the Independent Regulator, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Board is present, including one Executive Director and one Non-Executive Director, and that a majority of those present vote in favour of suspension.

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

3.31 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.

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

3.33 Variation and Amendment of Standing Orders -

Amendments to Standing Orders are an amendment to the Constitution and Section 37 of the Act provides that an NHS Foundation Trust may make amendments of its Constitution with the approval of the Regulator.

3.34 Record of Attendance - The names of the Chairman and Members of the Board present at the meeting shall be recorded in the minutes.

Quorum - No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and other Members of the Board appointed (including at least one Non-Executive and one executive Member of the Board) are present. If the Chairman or Member of the Board has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 6 or 7) 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.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 Subject to the Regulatory Framework and such guidance, if any, as may be given by the Independent Regulator, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee or sub-committee appointed by virtue of Standing Order 5.1 or 5.2 below, in each case subject to such restrictions and conditions

as the Board thinks fit.

4.2 Emergency Powers - The powers which the Board has retained to itself within these Standing Orders (Standing Order 2.3) may in emergency be exercised by the Chief Executive and the Chairman after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the Board for noting.

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

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

4.5 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance to provide information and advise the Board in accordance with statute or the Independent Regulator's requirements. Outside these regulatory requirements the Director of Finance shall be accountable to the Chief Executive for operational matters.

4.6 The arrangements made by the Board as set out in the Reservation of Powers to the Board and Delegation of Powers document shall have effect as if incorporated in these Standing Orders.

1 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 for action or ratification. All Members of the Board and staff have a duty to disclose any non-compliance with these Standing Orders to the Secretary as soon as possible.

2 COMMITTEES

5.1 Subject to such guidance as may be issued by the Independent Regulator, the Board may and, if directed by the Independent Regulator, shall appoint committees of the Board, consisting of one or more members of the Board.

5.2 A committee appointed under this regulation may, subject to such guidance as may be given by the Independent Regulator or the Board, appoint sub-committees consisting wholly of members of the committee.

5.3 The Standing Orders of the Board, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Board. In which case the term "Chairman" is to be read as a reference to the Chairman of the committee as the context permits, and the term "Member of the Board" is to be read as a reference to a member of the committee also as the context permits.

5.4 Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide and shall be

in accordance with the Regulatory Framework and any guidance issued by the Independent Regulator. Such terms of reference shall have effect as if incorporated into the Standing Orders.

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

5.6 The Board shall approve the appointments to each of the committees which it has formally constituted.

5.7 Where the Board is required to appoint persons to undertake statutory functions, and where such appointments are to operate independently of the Board such appointment shall be made in accordance with applicable statute and regulations and with guidance issued by the Independent Regulator.

5.8 The Committees established by the Board are:

- Audit & Assurance Committee
- Healthcare Governance Committee
- Trust Management Team
- Remuneration Committee
- Nominations Committee
- Turnaround Steering Board (Time limited)

The Charitable Funds Committee is not a Committee of the Board

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

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

6.1 Declaration of Interests - The Regulatory Framework requires Board Members to declare interests which are relevant and material to the board of which they are a Member. All existing Board members should declare such interests. Any board members appointed subsequently should do so on appointment.

6.2 Interests which should be regarded as "relevant and material" are to be interpreted in accordance with guidance issued by the Independent Regulator:

- a) Directorships, including Non-Executive directorships held in private companies or public limited companies (with the exception of those of dormant companies).
- b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.
- c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS.
- d) A position of trust in a charity or voluntary organisation in the field of health and social care.
- e) Any connection with a voluntary or other organisation contracting for NHS services.

f) To the extent not covered above, any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Corporation, including but not limited to lenders or banks.

g) Any other commercial interest in the decision before the meeting.

6.3 At the time Board members' interests are declared; they should be recorded in the Board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring.

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

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

6.6 There is no requirement for the interests of Board members' spouses or partners to be declared. However Standing Order 7, which is based on the regulations, requires that the interest of Members of the Board's spouses, if living together, in contracts should be declared. Therefore the interests of Board members' spouses and cohabiting partners should also be regarded as relevant.

6.7 If Board members have any doubt about the relevance or materiality of an interest, this should be discussed with the Chairman. Financial Reporting Standard No 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

6.8 Register of Interests - The Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Board members. 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

6.2.

6.9 These details will be kept up to date by means of a monthly review of the Register in which any changes to interests declared during the preceding month will be incorporated.

6.10 The Register will be available to the public and the Chairman 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.

6.11 In establishing, maintaining, updating and publicising the Register, the Corporation shall comply with all guidance issued from time to time by the Independent Regulator

7. DISABILITY OF CHAIRMAN AND MEMBERS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

7.1 Subject to the following provisions of this Standing Order, if the Chairman or another 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 Corporation at which the contract or other matter is the subject of consideration, he 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.

7.2 The Board may exclude the Chairman (or another Member of the Board) from a meeting of the Board while any contract, proposed contract or other matter in which he has a pecuniary interest, is under consideration.

7.3 Any remuneration, compensation or allowances payable to the Chairman or a Member of the Board shall not be treated as a pecuniary interest for the purpose of this Standing Order.

7.4 For the purpose of this Standing Order the Chairman or other Member of the Board shall be treated, subject to SO 7.5, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

(a) he, or a nominee of his, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or

(b) he is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and in the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.

7.5 The Chairman or a Member of the Board shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

(a) of his membership of a company or other body, if he has no beneficial interest in any securities of that company or other body;

(b) of an interest in any company, body or person with which he is connected as mentioned in SO 7.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence

a Member of the Board in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

7.6 Where the Chairman or a Member of the Board has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £5,000 or one hundredth of the total nominal value of the issued share capital of the company body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class, this Standing Order shall not prohibit him/her from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to his/her duty to disclose his/her interest.

7.7 The Standing Order applies to a committee or sub-committee and to a joint committee as it applies to the Board and applies to a Member of any such

committee or sub-committee as it applies to a Member of the Board.

8. STANDARDS OF BUSINESS CONDUCT POLICY

8.1 Staff should comply with the Corporation's Code of Conduct and any guidance issued by the Independent Regulator.

8.2 Interest of Officers in Contracts - If it comes to the knowledge of an officer of the Corporation that a contract in which he has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Corporation he shall, at once, give notice in writing to the Secretary of the fact that he is interested therein. In the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

8.3 An officer should also declare to the 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 Corporation. The Corporation requires interests, employment or relationships declared, to be entered in a register of interests of staff.

8.4 Canvassing of, and Recommendations by, Members of the Board in Relation to Appointments - Canvassing of Directors or Governors of the Corporation or of any Committee of the Corporation directly or indirectly for any appointment under the Corporation 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.

8.5 A Member of the Board shall not solicit for any person any appointment under the Corporation or recommend any person for such appointment: but this paragraph of this Standing Order shall not preclude a Member of the Board from giving written testimonial of a candidate's ability, experience or character for submission to the Corporation.

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

8.7 Relatives of Members of the Board or Officers - Candidates for any staff appointment under the Corporation shall, when making application, disclose in writing to the Corporation whether they are related to any Member of the Board or the holder of any office under the Corporation. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.

8.8 The Chairman and every Member of the Board and officer of the Corporation shall disclose to the Chief Executive any relationship between himself and a candidate of whose candidature that Member of the Board or officer is aware. It shall be the duty of the Chief Executive to report to the Board any such disclosure made.

8.9 On appointment, Members of the Board (and prior to acceptance of an appointment in the case of officer members) should disclose to the Board whether they are related to any other Member of the Board or holder of any office in the Corporation.

8.10 Where the relationship to a Member of the Board of the Corporation is disclosed, the Standing Order headed 'Disability of Chairman and Members of the Board in proceedings on account of pecuniary interest' (SO 7) shall apply.

9. TENDERING AND CONTRACT PROCEDURE

9.1 Duty to comply with Standing Orders - The procedure for making all contracts by or on behalf of the Corporation shall comply with these Standing Orders (except where Standing Order 3.26 is applied).

9.2 Contracts - The Board may enter into contracts on behalf of the Corporation within the Regulatory Framework and shall comply with:

- (a) these Standing Orders; and
- (b) the Corporation's Standing Financial Instructions.

9.3 Personnel and Agency or Temporary Staff Contracts - The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.

9.4 Contracts involving Funds Held on Trust – Such contracts involving charitable funds shall comply with the requirements of the Charities Act.

10. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

10.1 Custody of Seal - The Common Seal of the Corporation shall be kept by the Secretary in a secure place.

10.2 Sealing of Documents - The Seal of the Corporation shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board which expression includes by virtue of the resolution of the Board adopting these Standing Orders documents approved for sealing by the Chairman and either the Chief Executive or another Executive Director.

10.3 Register of Sealing - An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose, and shall be signed by 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 at least quarterly. (The report shall contain details of the seal number, the description of the document and date of sealing).

11. SIGNATURE OF DOCUMENTS

11.1 Where the signature of any document will be a necessary step in legal proceedings involving the Corporation, it shall be signed by the Chief Executive, unless any enactment otherwise requires or authorises, or the Board shall have given the necessary authority to some other Executive Director for the purpose of such proceedings.

11.2 The Chief Executive or other Executive Directors shall be authorised to sign on behalf of the Corporation any agreement or other document not requested to be executed as a deed, the subject matter of which has been approved by the Board or any committee or sub-committee with delegated authority.

2 MISCELLANEOUS

12.1 Standing Orders to be given to Members of the Board and Officers -It is the duty of the Chief Executive to ensure that existing Members of the Board and officers and all new appointees are notified of and understand their responsibilities within Standing Orders and Standing Financial Instructions. 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.

12.2 Documents having the standing of Standing Orders - Standing Financial Instructions and Reservation of Powers to the Board and Delegation of Powers shall have effect as if incorporated into Standing Orders.

12.3 Review of Standing Orders - Standing Orders shall be reviewed annually by the Board. The requirement for review extends to all documents having the effect as if incorporated in Standing Orders.

12.4 Dispute resolution – Questions and disputes regarding the interpretation of these Standing Orders and the procedure to be followed at meetings of the Board of Directors shall be resolved in accordance with the Constitution.