



Cheshire and Wirral Partnership
NHS Foundation Trust



Corporate Governance Manual

2010

(Updated September 2016)

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Version control		
Version	Date	Comments
1	November 2010	Approved by the Board of Directors
2	December 2010	Minor changes to Delegated Financial Limits (Table B)
3	November 2012	
4	July 2014	Review undertaken
5	September 2014	Amendments approved by Board of Directors
6	January 2015	Changes to tendering, e-tendering and tender waiver process due to implementation of procurement strategy
7	May 2015	Minor amendment to tender waiver form Updated delegated responsibility for approval of tender waivers Updated Terms of Reference inserted Updated Committee Structure inserted

8	July 2016	<p>Updated Committee Structure inserted</p> <p>Updated Terms of Reference inserted</p> <p>Updated Governors Code of Conduct inserted</p> <p>Added information on Trust meetings structure and governance arrangements regarding Chair's action</p> <p>Updated Policy on Hospitality and Gifts, now inclusive of Sponsorship, Human Medicines Regulations and reflective of "Sunshine Rule"</p> <p>Updated SFIs in relation to procurement and tendering</p> <p>Removal of sections in relation prudential borrowing code and protected assets</p> <p>Amendments to guidance in relation to the asset register</p> <p>Amendments to the "off payroll" guidance</p> <p>Updated delegated authority table</p> <p>Updated delegated financial limits table</p> <p>Amendments to the Accounting Officers Memorandum</p> <p>Updated formatting and page numbering</p> <p>Updated job titles and regulatory titles</p> <p>Updated review dates</p> <p>Amended content page references numbering</p> <p>Amended signposted sections numbering</p>
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1. Foreword

- 1.1 Cheshire and Wirral Partnership NHS Foundation Trust (the Trust) is a public benefit corporation that was established in accordance with the provisions of the National Health Service Act 2006. As a body corporate the Trust has specific powers to contract in its own name and to act as a corporate trustee.
- 1.2 Corporate governance is the system by which an organisation is directed and controlled, at its most senior levels, in order to achieve its objectives and meet the necessary standards of accountability and probity. Effective corporate governance, along with clinical governance, is essential for a Foundation Trust to achieve its clinical, quality and financial objectives. Fundamental to effective corporate governance is having the means to verify the effectiveness of this direction and control, which is achieved through independent review and assurance. This Corporate Governance Manual sets out the regulation of the Trust's governance system.
- 1.3 The NHS Act 2006 and subsequent regulations set out the legal framework within which the Foundation Trust operates. The Constitution sets out who can be members of the Foundation Trust and how it should conduct its business. The Terms of Authorisation are provided by NHS Improvement (the independent regulator of Foundation Trusts) and identify the conditions of operation. The Accounting Officer Memorandum requires Foundation Trust Boards of Directors to adopt schedules of reservation and delegation of powers and to set out the financial framework within which the organisation operates.
- 1.4 This corporate governance manual comprises:
 - Schedule of matters reserved to the Board of Directors
 - Matters delegated by the Board of Directors to its Committees
 - Scheme of delegation
 - Standing Financial Instructions
 - Standing Orders for the Board of Directors
 - Code of Conduct for the Board of Directors
 - Council of Governors' Code of Conduct
 - Code of Conduct for NHS Managers
 - Standards of Business Conduct for NHS Staff
 - Standing Orders for the Council of Governors
- 1.5 Compliance with these documents is required of the Foundation Trust, its Executive and Non-Executive Directors, Governors, officers and employees, all of whom are also required to comply with:
 - The Trust's Constitution and Licence
 - The Accounting Officer Memorandum
- 1.6 The Trust must also have agreed its own Standing Orders as a framework for internal governance. These are included in this corporate governance manual.
- 1.7 All of the above-mentioned documents together provide a regulatory framework for the business conduct of the Foundation Trust.
- 1.8 The Foundation Trust Board of Directors also has in place Audit and Remuneration committees and an established framework for managing risk.

- 1.9 It is essential that all Directors, Governors, officers and employees know of the existence of these documents and are aware of their responsibilities included there within. A copy of this manual is available on the Trust's website and it has been explicitly brought to the attention of key staff within the organisation and to all staff via the internal communication routes.
- 1.10 Any queries relating to the contents of these documents should be directed to the Director of Finance, the Head of Corporate Affairs, or myself who will be pleased to provide clarification.

Sheena Cumiskey
Chief Executive
July 2014

2. Definition and interpretation

- 2.1 Unless the contrary intention appears or the context otherwise requires, words or expressions contained in this corporate governance manual bear the same meaning as in the NHS Act 2006 and the Constitution. References to legislation include all amendments, replacements, or re-enactments made.
- 2.2 Headings are for ease of reference only and are not to affect interpretation. Words importing the masculine gender only shall include the feminine gender; words importing the singular shall include the plural and vice-versa.
- 2.3 In this corporate governance manual the following definitions apply:

Title	Definition
The 2012 Act	The Health and Social Care Act 2012
The 2006 Act	The National Health Service Act 2006
The 1977 Act	The National Health Service Act 1977
Accounting Officer	The person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act; they shall be the Officer responsible and accountable for funds entrusted to the Foundation Trust in accordance with the NHS Foundation Trust Accounting Officer Memorandum. They are responsible for ensuring the proper stewardship of public funds and assets. The NHS Act 2006 designates the Chief Executive of the NHS Foundation Trust as the Accounting Officer
Agenda Item	Board of Directors - an item from a Board member (notice of which has been given) about a matter over which the Board has powers or duties or which affects the services provided by the Foundation Trust Council of Governors – an item from a Governor or Governors (notice of which has been given) about a matter over which the Council has powers or duties or which affects the services provided by the Foundation Trust.
Appointing organisations	Those organisations named in the constitution who are entitled to appoint governors
Authorisation	An authorisation given by NHS Improvement under Section 35 of the 2006 Act
The Board	The Board of Directors of the Foundation Trust
Budget	A resource, expressed in financial or workforce terms, proposed by the Board of Directors for the purpose of carrying out, for a specific period, any or all of the functions of the Foundation Trust
Bribery Act	The Bribery Act 2010
Budget holder	The Director or employee with delegated authority to manage finances (income and expenditure) for a specific area of the organisation

Title	Definition
The Chair	Is the person appointed by the Council of Governors to lead the Board and ensure it successfully discharges its overall responsibility for the Foundation Trust as a whole. It means the Chair of the Foundation Trust, or, in relation to the function of presiding at or chairing a meeting where another person is carrying out that role as required by the Constitution, such person
Chief Executive	The chief officer of the Foundation Trust
Committee	A committee or subcommittee created and appointed by the Foundation Trust
Constitution	The constitution of the Foundation Trust as amended from time to time. Describes the type of organisation, its primary purpose, governance arrangements and membership
Contracting and procuring	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
Council of Governors	The Council of Governors of the Foundation Trust
Director	A member of the Board of Directors
Director of Finance	The chief finance officer of the Foundation Trust
External auditor	The person appointed to audit the accounts of the Foundation Trust, who is called the auditor in the 2006 Act
Financial year	a) the period beginning with the date on which the Foundation Trust is authorised and ending with the next 31 March; and b) each successive period of twelve months beginning with 1 April
The Foundation Trust	Cheshire and Wirral Partnership NHS Foundation Trust
Foundation Trust contract	Agreement between the Foundation Trust and Clinical Commissioning Groups and/or others for the provision and commissioning of health services
Funds held on Trust	Those trust funds which the Foundation Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under powers derived under the 2006 Act. Such funds may or may not be charitable
Governor	An elected or appointed member of the Council of Governors
Licence	Provider Licence issued by the regulator NHS Improvement
NHS Improvement	The regulator (previously Monitor) for the purposes of the 2006 Act
Meeting	Board of Directors – a duly convened meeting of the Board of Directors Council of Governors - a duly convened meeting of the Council of Governors
Member	A member of the Foundation Trust
Motion	A formal proposition to be discussed and voted on during the course of a meeting
Nominated Officer	An officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions
Officer	An employee of the Foundation Trust
Partner	In relation to another person, a member of the same household living together as a family unit
Registered medical practitioner	A fully registered person within the meaning of the Medicines Act 1983 who holds a licence to practice under that Act

Title	Definition
Registered nurse or midwife	A nurse, midwife or health visitor registered in accordance with the Nurses, Midwives and Health Visitors Act 1997
Secretary	The Secretary appointed under the Constitution, the Secretary of the Foundation Trust or any other person appointed to perform the duties of the Secretary, including a joint, assistant or deputy secretary. N.B. role currently known as the Head of Corporate Affairs
Standing Financial Instructions	(SFIs) regulate the conduct of the Trust's financial matters
Standing Orders	(SOs) incorporate the Constitution and regulate the business conduct of the Foundation Trust

3. Schedule of matters reserved to the Board of Directors

3.1 General Enabling Provision

3.1.1 The Board of Directors may determine any matter it wishes, for which it has authority, in full session within its statutory powers. In accordance with the Code of Conduct and Accountability adopted, the Board explicitly reserves that it shall itself approve/appraise, as appropriate, the following matters detailed in paragraph 3.3 below. All Board members share corporate responsibility for all decisions of the Board and the Board remains accountable for all of its functions, even those delegated to individual committees, sub-committees, directors or officers.

3.2 Duties

It is the Board's duty to:

- Act within statutory financial and other constraints
- Be clear what decisions and information are appropriate to the Board of Directors and draw up Standing Orders, a schedule of decisions reserved to the Board and Standing Financial Instructions to reflect these;
- Ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives for the main programmes of action and for performance against programmes to be monitored and senior executives held to account
- Establish performance and quality measures that maintain the effective use of resources and provide value for money;
- Specify its requirements in organising and presenting financial and other information succinctly and efficiently to ensure the Board can fully undertake its responsibilities; Establish Audit and Remuneration Committees on the basis of formally agreed terms of reference that set out the membership of the sub-committee, the limit to their powers, and the arrangements for reporting back to the main Board.

3.3 Reserved matters

3.3.1 Standing Orders

- Approval of and changes to Board standing orders.

3.3.2 Matters of Governance

- Approval of and changes to the schedule of matters reserved to the Board of Directors
- Approval of and changes to the standing financial instructions
- Suspension of Board standing orders
- Ratify or otherwise instances of failure to comply with standing orders brought to the Chief Executive's attention in accordance with Standing Orders
- Ratification of any urgent decisions taken by the Chair and Chief Executive, in public session in accordance with the standing orders
- Approval of and changes to codes of conduct
- Approval of the Trust's risk assurance framework
- Approval of the Board's scheme of reservation and delegation
- Adoption of the organisational structures, processes and procedures to facilitate the discharge of business by the Foundation Trust and approval of any changes Approval of the remit and membership of Board committees including
- Approval of terms of reference and reporting arrangements of all committees and sub- committees that are established by the Board of Directors
- To confirm the recommendations of committees where they do not have executive powers to

receive reports from committees including those which the Foundation Trust is required by the National Health Service Act 2006 or other regulation to establish and to take appropriate action there on

- Audit arrangements
- Clinical audit arrangements
- The annual audit letter
- Annual report and statutory accounts of the Trust
- Annual report and accounts for funds held on trust (charitable funds)
- Approval of arrangements relating to the discharge of the Foundation Trust's responsibilities as a corporate trustee for funds held on trust
- Approval of arrangements relating to the discharge of the Foundation Trust's responsibilities as a bailer for patients' property
- Disciplining Board members or employees who are in breach of statutory requirements or Standing Orders.

3.3.3 Important regulatory matters

- Compliance with the Trust's Licence, its constitution and all statutory and regulatory obligations
- Directors' and officers' declaration of interests and determination of action if required
- Arrangements for dealing with complaints
- Disciplinary procedures for officers of the Trust.

3.3.4 Appointments and dismissals

- Appointment and dismissal of committees (and individual members) that are directly accountable to the Board of Directors excluding the Audit Committee, the Nominations Committee (Executive Directors) and the Remuneration and Terms of Service Committee. This does not imply that individual members of all Committees can be dismissed Appointment, appraisal, disciplining and dismissal of Executive Directors.
- Confirm the appointment of members of any committee of the Foundation Trust as representatives on outside bodies
- Appoint, appraise, discipline and dismiss the Head of Corporate Affairs
- Approve proposals received from the Remuneration Committee regarding the Chief Executive, Directors and senior employees.

3.3.5 Strategic direction

- Strategic aims, direction and objectives of the Foundation Trust
- Financial plans and forecasts
- Approval of the Trust's annual plan, strategic developments and associated business plans
- Approval of annual revenue and capital budgets
- Approval of all Trust strategies to include, but not be limited to the risk management strategy and human resources strategy
- Approval of capital plans including:
 - Proposals for acquisition, disposal or change of use of land and/or buildings
 - Private finance initiative (PFI) proposals
 - Individual contracts, including purchase orders of a capital or revenue nature in accordance with Delegated Financial Limits, Table B, section 2.
- Approve proposals for action on litigation against or on behalf of the Foundation Trust where the likely financial impact is as shown in the Delegated Financial Limits, Table B, section 2 or contentious or likely to lead to extreme adverse publicity, excluding claims covered by the NHS risk pooling schemes

3.3.6 Monitoring performance

- Operational and financial performance arrangements at intervals that it shall determine

3.3.7 Other matters

- Appointment of bankers
- Approve the opening of bank accounts.
- Approve individual compensation payments

4. Matters delegated by the Board of Directors to its Committees

4.1 Committee Structure

Matters are delegated by the Board of Directors via the Trust meetings structure (see [section 4a](#)) each links through to the corporate assurance framework, underpinned by NHS Improvement's quality governance requirements and the Care Quality Commission's requirements for registration. This provides the Board with assurance about how the organisation is able to identify, monitor and escalate and manage concerns, which may include identifying consequences to ensure performance management where assurance is not provided, in a timely fashion at an appropriate level.

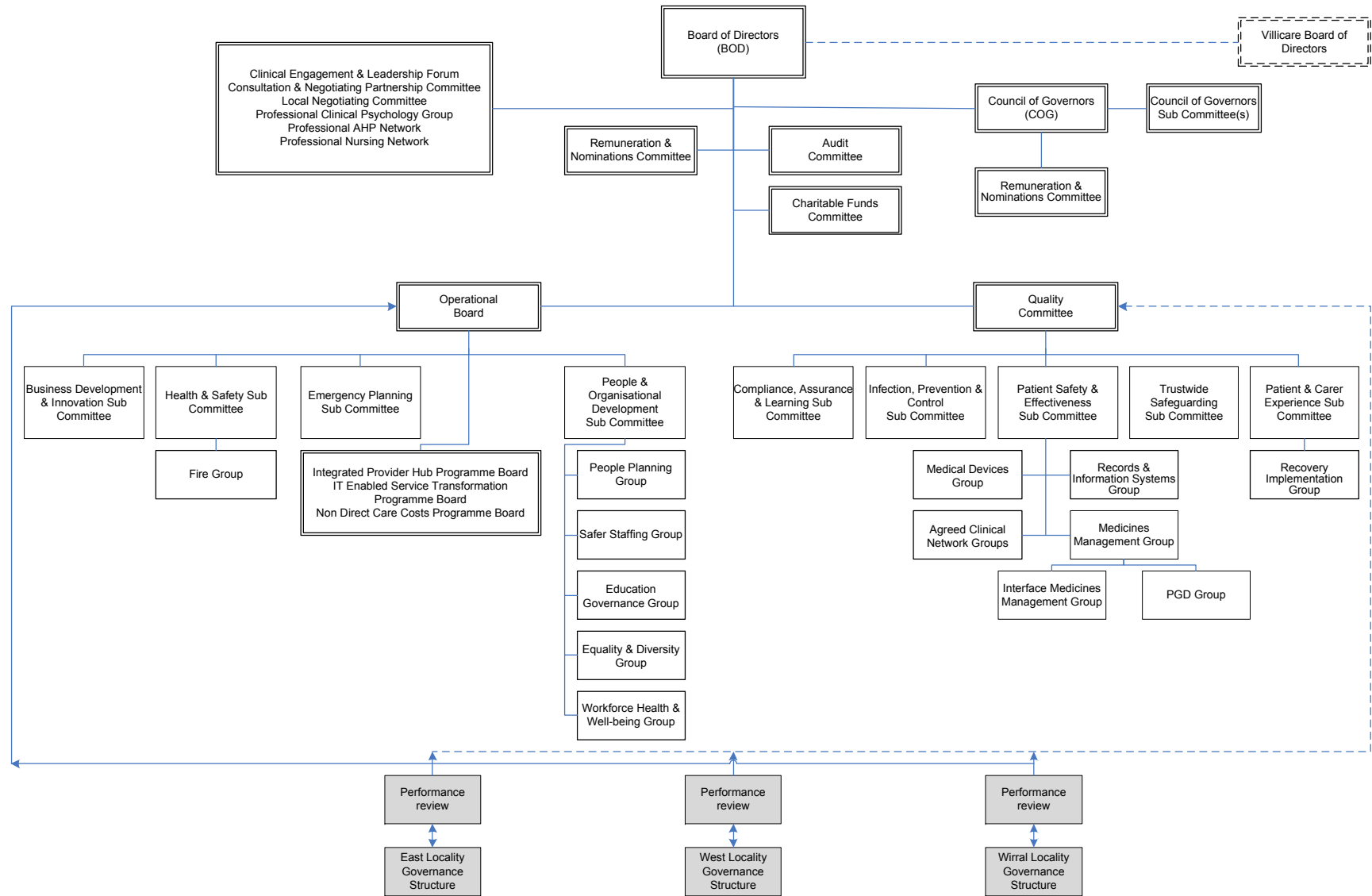
The Trust's strategic plan is implemented, monitored and assured by the Trust's meeting structure which has delegated responsibility from the Trust Board. The structure monitors compliance through performance indicators, a comprehensive audit programme, the monitoring of associated risks and through other mechanisms of assurance. Reporting and accountability mechanisms are supported by clear terms of reference for each committee. See [section 4b](#) for the terms of reference for the statutory committees of the Board.

4.2 Chairs Action

It is recognised that there will be times when urgent decisions are required. These powers will only be used when an urgent decision is required and there are no alternatives (e.g. the matter will not wait until the next meeting of the committee/sub committee and cannot safely be dealt with in any other way). Anyone putting forward an item for Chair's action should ensure that the issue has been supported by key individuals and committees in the usual way.

To ensure transparency, any urgent decisions will be submitted, along with relevant supporting papers, to the next regular meeting for ratification and recording in the minutes. If decisions have an immediate impact on the wider membership of the committee/sub committee, the members will be informed at the earliest convenience.

4 a. Committee Structure



4b. Statutory committees of the Board

4bi. Audit Committee

Terms of Reference

1. Constitution

The Board of Directors hereby resolves to establish a Committee to be known as the Audit Committee. The Committee is a non-executive Committee of the Board and has no executive powers other than those specifically delegated in these Terms of Reference.

2. Duties

The Committee is responsible for:

a. Governance, risk management and internal control

The Committee shall review the establishment and maintenance of an effective system of integrated governance, risk management and internal control across the whole of the Trust's activities (both clinical and non-clinical) that supports the achievements of the Trust's objectives. It will provide an independent and objective view on internal control and probity. In addition, the Committee shall monitor any formal announcements relating to its financial performance, reviewing significant financial reports and the judgements contained in them.

In particular the Committee will review the adequacy of:

- All risk and control related disclosure statements (in particular the Annual Governance Statement and declarations of compliance to external bodies), together with any accompanying Head of Internal Audit statement, external audit opinion or other appropriate independent assurances, prior to endorsement by the Board
- The underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements
- The policies for ensuring compliance with relevant regulatory, legal and code of conduct requirements and related reporting and self-certification
- The finance-related policies and procedures approved by the Operational Board including Standing Orders, Standing Financial Instructions, Scheme of Delegation
- The policies and procedures for all work related to fraud and corruption as required by the NHS Protect.
- The arrangements by which Trust staff may raise, in confidence, concerns about possible improprieties in matters of financial reporting and control, clinical quality, patient safety or other matters. In so doing the Committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

In carrying out this work the Committee will utilise the work of internal audit, external audit and other assurance functions but will not be limited to these sources. It will also seek reports and assurances from directors and managers as appropriate, concentrating on the overarching systems of integrated governance, risk management and internal control, together with indicators of their effectiveness. This will be evidenced through the Committee's use of an effective Assurance Framework to guide its work and that of the audit and assurance functions that report to it.

b. Internal audit

The Committee will ensure that there is an effective internal audit function established by management that meets public sector internal audit standards and NHS internal audit standards and provides appropriate independent assurance to the Audit Committee, Chief Executive and Board. This will be achieved by:

- Consideration of the provision of the internal audit service, the cost of the audit and any questions of resignation and dismissal
- Review and approval of the internal audit strategy, operational plan and more detailed programme of work, ensuring that this is consistent with the audit needs of the Trust as identified in the Assurance Framework
- Consideration of the major findings of internal audit work (and management's response) and ensuring coordination between internal and external auditors to optimise audit resources
- Ensuring that the internal audit function is adequately resourced and has appropriate standing within the Trust
- Annual review of the effectiveness of internal audit.
- Annual self-assessment of the Committee, facilitated by Internal Audit.

c. External audit

The Committee shall review the independence, objectivity and work of the external auditor appointed by the Council of Governors and consider the implications and management's responses to their work. This will be achieved by:

- Consideration of the appointment and performance of the external auditor, including liaising with and making recommendations to the Council of Governors regarding the former
- The duration of each term will be three years with an option for an additional two years. Once the term has expired, the appointment must be subject to open tender.
- Discussion and agreement with the external auditor, before the audit commences, of the nature and scope of the audit as set out in the annual plan and ensure coordination with internal auditors and with other external auditors in the local health economy
- Discussion with the external auditors of their local evaluation of audit risks and assessment of the Trust and associated impact on the audit fee
- Review all external audit reports, including the report to those charged with governance, agreement of the annual audit letter before submission to the Board and any audit work performed outside the annual audit plan, together with the appropriateness of management responses
- Approval of the engagement of the external auditor in respect of non-audit work where the cost is over £5,000, taking into account relevant ethical guidance regarding the provision of such services. The Director of Finance will inform the Committee of any non-audit engagements below this figure and in all cases the Committee will report them to the Council of Governors
- Annual review of the effectiveness of external audit.

d. Other assurance functions

The Audit Committee shall review the findings of other significant assurance functions, both internal and external to the Trust, and consider the implications to the governance of the Trust. It will review, appraise and report in accordance with Government Internal Audit Standards (GIAS) and best practice. These will include, but will not be limited to, reviews and reports by Department of Health arm's length bodies or regulators/inspectors e.g. Care Quality Commission, NHS litigation Authority, etc.), professional bodies with responsibility for the performance of staff or functions (e.g. Royal Colleges, accreditation bodies, etc.), the Local Anti-Fraud Specialist (LCFS).

In addition the Committee will review the work of other committees within the Trust, whose work can provide relevant assurance to the Audit Committee's own scope of work. This will particularly include the Quality

Committee and Operational Board. With regard to the former and issues around clinical risk management the Audit Committee will wish to satisfy itself on the assurance that can be gained from the clinical audit function.

The Committee will also review all suspensions of Standing Orders and variation or amendment to Standing Orders.

At each meeting, the Committee may wish to review any "red" rated risk from the Risk Register and may request it receives a presentation in person from the senior clinical / other professional responsible for addressing this particular risk.

The Audit Committee will report to the Board and to the Council of Governors any matters in respect of which it considers action or improvement is needed.

e. Anti- fraud

The Audit Committee shall satisfy itself that the Trust has adequate arrangements in place for countering fraud and will approve the appointment of the Local Anti-Fraud Specialist. The Committee will review the outcomes of Anti-fraud work.

f. Management

The Committee shall request and review reports and positive assurances from directors and managers on the overall arrangements for governance, risk management and internal control. They may also request specific reports from individual functions within the Trust (e.g. clinical audit) as they may be appropriate to the overall arrangements.

g. Statutory reporting (Financial & Quality Accounts)

The Audit Committee shall review the Trust's annual report and associated accounting statements before submission to the Board, focusing particularly on:

- The wording in the Annual Governance Statement and other disclosures relevant to the Terms of Reference of the Committee
- Changes in, and compliance with, accounting policies, practices and estimation techniques
- Unadjusted misstatements in the financial statements
- Major judgemental areas
- Significant adjustments resulting from the audit
- Letter of representation
- Qualitative aspects of statutory reporting

The Committee shall monitor the integrity of the accounting statements of the Trust and any formal announcements relating to the Trust's reported performance. The Committee should also ensure that the systems for both financial and qualitative reporting to the Board are subject to review as to completeness and accuracy of the information provided to the Board.

3. Membership

Membership will be appointed by the Board of Directors from amongst its Non-Executive members and will consist of not less than three members.

Members can participate in meetings by two-way audio link including telephone, video or computer link (excepting email communication). Participation in this way shall be deemed to constitute presence in person at the meeting and count towards the quorum.

The Board will appoint one of the members to be Chair and another Vice Chair from the outset. The Vice Chair will automatically assume the authority of the Chair should the latter be absent. The Chair of the Trust shall not be a member of the Committee.

a. Quorum

A quorum shall be two members.

b. Voting

Each member will have one vote with the Chair having a second and casting vote, if required. Should a vote be necessary a decision will be determined by a simple majority.

c. Attendance by members

Members will be required to attend a minimum of 50% of all meetings.

d. Attendance by officers

Either the Director of Finance or the Deputy Director of Finance and appropriate internal and external audit representatives shall normally attend meetings. At least once a year the Committee will meet privately with the external and internal auditors.

The Chief Executive and other executive directors will be invited to attend, particularly when the Committee is discussing areas of risk or operation that are the responsibility of that director.

The Chief Executive will also be required to attend when the Audit Committee discussed the process for assurance that supports the Annual Governance Statement

The Trust's Head of Corporate Affairs will be Secretary to the Committee and will attend to take minutes of the meeting and provide appropriate support to the Chair and the Committee members.

The Chair of the Quality Committee will have a standing invitation to attend all meetings and, additionally, officers and staff of the Trust will be invited to attend the meeting as appropriate when an issue relating to their area of operation or responsibility is being discussed.

4. Accountability and reporting arrangements

The Audit Committee will be accountable to the Board of Directors.

The minutes of the Audit Committee will be formally recorded and submitted to the Board of Directors. The Chair of the Audit Committee shall draw to the attention of the Board of Directors any issues that require disclosure to it, or require executive action.

The Audit Committee will refer to the other two Board governance Committees (the Quality Committee and the Operational Board) matters considered by the Committee deemed relevant for their attention. The Committee will consider matters referred to it by those two governance Committees.

The Committee will report to the Board annually on its work and performance in the preceding year and, as part of this report, will provide commentary in support of the Annual Governance Statement, specifically dealing with the fitness for purpose of the Assurance Framework, the completeness and embeddedness of risk management in the Trust, the integration of governance arrangements and the appropriateness of the evidence compiled to demonstrate fitness to register with the Care Quality Commission and the robustness of the processes behind the quality accounts.

Trust Standing Orders and Standing Financial Instructions apply to the operation of the Audit Committee.

5. Frequency

Meetings will normally be held bi-monthly.

The external auditor or Head of Internal Audit may request a meeting if they consider that one is necessary.

6. Authority

The Audit Committee is authorised by the Board of Directors to investigate any activity within its Terms of Reference. The Committee is authorised to seek any information it requires from any employee and all employees are directed to cooperate with any request made by the Committee.

The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise, subject always to compliance with Trust delegated authorities.

7. Monitoring effectiveness

The Committee will undertake an annual review of its performance against its duties in order to evaluate its achievements.

8. Administration

The Committee shall be supported administratively by the Company Secretary whose duties in this respect will include:

- Agreement of the agenda with the Chair
- Collation and review of reports
- Distribution of agenda and reports to members in accordance with the Trust's corporate governance standards
- Taking the minutes of the meeting
- Preparing a record of actions
- Advising the Committee on pertinent areas.

9. Review

These terms of reference will be reviewed at least annually by the Committee.

Date reviewed by Committee	March 2015
Date approved by Board of Directors	March 2015
Review date	March 2016

10. Version control

Version control	Date	Comments
1	7 July 2010	Amends made by Audit Committee members and by Company Secretary following review of (as yet unpublished) Department of Health Audit Committee Handbook 2010
2	26 July 2010	Amends made by Audit Committee members and Deputy Director of Finance

3	27 July 2010	Further amends made by Audit Committee members
4	4 May 2011	Further amends made by Audit Committee members
5	6 March 2012	Further amends made by Audit Committee members
6	5 March 2013	Reviewed by Audit Committee
7	1st May 2014	Reviewed by Audit Committee, amendments agreed
8	5 th May 2015	Reviewed By Audit Committee, amendments agreed
9	1st March 2016	Amendment to section 2a.

4bii. Nominations and Remuneration Committee (of the Board of Directors)

Terms of Reference

1. Constitution

The Board hereby resolves to establish a Committee of the Board to be known as the Remuneration and Nominations Committee (the Committee).

2. Duties

To be responsible for identifying and appointing candidates to fill all the executive director position on the board and for determining their remuneration and other conditions of service.

(Where the Committee is appointing the Chief Executive, the Committee shall be the Committee described in Schedule 7, 17(3) of the National Health Service Act (The Act). When appointing the other executive directors, the Committee shall be the Committee described in Schedule 7, 17(4) of the Act.

2.a Remuneration Role

The Committee will:

- Determine the remuneration and terms of service of the Chief Executive
- With the Chief Executive, to determine the remuneration and terms of service (including pension rights and any compensation payments) of the Executive Management Team and other Senior Managers as agreed*
- Establish and keep under review a policy in respect of Executive Board Directors (and Senior Managers on local-determined pay)
- To approve proposals presented by the Chief Executive for determining the remuneration levels and conditions of service for those employees and officers not otherwise covered by the scope of this Committee, prior to any submission to Trust Board
- To agree annual objectives for the Chief Executive and Executive Management Team
- To monitor and evaluate the performance of the Chief Executive and Executive Management Team, at least annually, against their objectives
- To oversee appropriate contractual arrangements relating to the Chief Executive and Executive Management Team
- To scrutinise any termination payments relating to the Chief Executive or members of the Executive Management Team, ensuring that they have been properly calculated and take account of any relevant guidance
- To be responsible for any disciplinary issues relating to the Chief Executive or members of the Executive Management team, ensuring that they have been properly calculated and take account of any relevant guidance
- To be responsible for any disciplinary issues relating to the Chief Executive or member of the Executive Management Team which may result in their dismissal. The Committee will not be responsible for any disciplinary issue which is short of dismissal

- Such other duties as the Trust Board may delegate.

2b. Nominations Role

The Committee will:

- Regularly review the structure, size and composition (including skills, knowledge, experience and diversity of the Board, making use of the output of the Board evaluation process as appropriate and make recommendations to the Board and Remuneration and Nominations Committee of the Council of Governors as applicable with regard to any changes.
- Give full consideration and make plans for succession planning for the Chief Executive and other Executive Board members taking into account the challenges and opportunities facing the Trust and the skills and expertise needed on the Board in the future
- Be responsible for identifying and appointing candidates to fill posts within its remit as and when they arise taking into consideration at the outset of each appointment the balance of skills, knowledge and experience of the Board and the role and capabilities required in the position.
- Consider any matter relating to the continuing in office of any Board Executive Director (including the suspension or termination of service of an individual as an employee of the Trust, subject to the provisions of the law and their service contract.

3. Membership

The Committee will be appointed by the Board and consist of the Chair and all Non- Executive Directors of the Trust.

The Board will appoint one of the Committee members to be Chair and another Vice Chair from the outset. The Vice Chair will automatically assume the authority of the Chair should the latter be absent.

4. Quorum

A quorum will be three members.

5. Voting

Each member will have one vote with the Chair having a second and casting vote, if required. Should a vote be necessary a decision will be determined by a simple majority.

6. Attendance by members

Committee members will be required to attend a minimum of 50% of all meetings

7. Attendance by officers

The Chief Executive will be invited to attend meetings in an ex-officio capacity, except when the Chief Executive's remuneration and terms of service are being considered. The Head of Corporate Affairs will act as Secretary to the Committee. The Director of Human Resources and Organisational Development will act as adviser to the Committee. The Committee may invite other managers to attend in an advisory capacity or seek information from an external independent source if necessary.

8. Accountability and reporting arrangements

The Committee will be accountable to the Board of Directors.

The minutes of the Committee shall be formally recorded by the Head of Corporate Affairs and

submitted to the Board of Directors. The Chair of the Committee shall draw to the attention of the Board of Directors any issues that require disclosure to the full Board, or require executive action.

Trust Standing Orders and Standing Financial Instructions apply to the operation of the Committee.

9. Frequency

There will be at least one meeting per year with additional meetings being arranged as required.

10. Authority

The Committee will be authorised by the Board of Directors to determine the remuneration and terms of service of the Chief Executive, members of the Executive Management Team and other Senior Managers as agreed. The Committee also has delegated authority to deal with disciplinary issues relating to the Chief Executive and Executive Management Team.

The Committee is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise, subject always to compliance with Trust delegated authorities.

11. Monitoring effectiveness

The Committee will undertake an annual review of its performance in order to evaluate the achievement of its duties.

12. Administration

The Committee shall be supported administratively by the Head of Corporate Affairs whose duties in this respect will include:

- Agreement of the agenda with the Chair
- Collation and review of reports
- Distribution of agenda and reports to members in accordance with the
- Trust's corporate governance standards Taking the minutes of the meeting Preparing a record of actions
- Advising the Committee on pertinent areas.

13. Review

These terms of reference will be reviewed at least annually by the Committee

* The definition of "senior managers" is 'those persons in senior positions having authority or responsibility for directing or controlling the major activities of the NHS foundation trust'. The chief executive should confirm whether this covers more than the chair, the executive and non-executive directors of the NHS foundation trust (who should be treated as senior managers as a matter of course). (*NHS Foundation Trust Annual Reporting Manual 2014/15*)

Date last reviewed by Committee	March 2016
Next Review date	March 2017

4c. Other Committees

4ci. Quality Committee

Terms of Reference

1. Constitution

The Board of Directors hereby resolves to establish a committee to be known as the Quality Committee.

2. Duties

The Quality Committee is responsible for receiving assurance on organisational quality governance and ensuring that the strategic priorities for quality improvement are identified, implemented and monitored. The Quality Committee has delegated responsibility from the Board of Directors for monitoring strategic risks within the organisation. The Quality Committee's duties can be categorised as:

- a) Receiving assurance on organisational quality governance, aligned to the national "quality governance framework", to inform and provide integrity to the Board of Directors' quarterly self-assessment assurance framework.
- b) Identifying the strategic priorities in relation to quality improvement and oversight of the implementation of these strategic priorities.
- c) Receiving assurance on the clinical and quality impact of the delivery of:
 - i. the priority services described in the operational plan 2016/17 (routine reporting of activity);
 - ii. all current services (exception reporting of real/ near-real time issues); and
 - iii. financial decisions within the Trust (exception reporting of impact of efficiency schemes/ cost improvement programmes).
- d) Review of the Trust's Quality Account and recommending its approval to the Board of Directors.
- e) Oversight of the quality schedules (including CQUINs) of the Trust's contracts with commissioners via minutes and/ or reports from the Patient Safety and Effectiveness Sub Committee, Compliance, Assurance & Learning Sub Committee, Safeguarding Sub Committee, the Infection, Prevention & Control Sub Committee and Patient and Carer Experience Sub Committee, including ensuring that any escalated issues are addressed or escalated to the Board of Directors as appropriate.
- f) Ensuring that the patient safety agenda is implemented throughout the Trust. This includes:
 - Updates from patient safety initiatives, including thematic reports as an output of implementing the Trust's safety management system.
 - Oversight of serious incident management processes, including response to Regulation 28 reports.
 - Monitoring of the Trust's risk register processes.
- g) Ensuring that the clinical effectiveness agenda is implemented throughout the Trust. This includes:
 - Updates from clinical effectiveness initiatives.
 - Receipt of assurance in relation to whether the Trust adheres to best practice and evidence based best practice (NICE guidance including quality standards, Royal College standards etc.).
 - Monitoring the processes around outcome/ impact/ variance measurement against care pathways.
- h) Ensuring that the patient and carer experience agenda is implemented throughout the Trust. This includes:
 - Updates from patient and carer experience initiatives.
 - Oversight of complaints, PALS and claims processes.
 - Receipt of assurance in relation to whether the Trust is learning from patient and carer experience initiatives, through receipt of the Learning from Experience report and Quality Improvement report.
- i) Receiving, monitoring and seeking assurance of (including through improvement plans) service level quality performance as presented in aggregated quality data sets (service-level locality data packs). These will be directly linked to supporting assurance requirements associated with the above three duties.

- j) Monitoring and reporting on the Trust's delivery of integrated governance, exercising oversight of the systems and escalating any matters of concern as appropriate.
- k) Seeking assurances that the Trust complies with external regulations and standards of quality and governance, including Care Quality Commission registration requirements.
- l) Receiving reports from the Board of Directors and Operational Board for information, context, assurance and/ or action as appropriate.
- m) Approving the terms of reference and membership of its reporting sub committees and overseeing the work of those sub committees, receiving reports from them for consideration and action as necessary and routinely receiving the Chair's reports and minutes of their meetings.
- n) Receiving and reviewing the corporate strategic risks (including those referred from other committees which are concerned with quality matters) allocated to the Quality Committee, monitoring progress made in mitigating those risks, identifying any areas where additional assurance is required and escalating to the Board of Directors as agreed by Quality Committee members.

3. Membership

Membership will be appointed by the Board of Directors and will consist of the following:

- i. Non Executive Director (Chair)
- ii. Two additional Non Executive Directors (one of whom shall be Vice Chair)
- iii. *Lived Experience Advisor
- iv. Chief Executive (Accountable Officer)
- v. Medical Director (Quality)
- vi. Medical Director (Effectiveness and Medical Staffing)
- vii. *Director of Finance
- viii. Director of Nursing, Therapies & Patient Partnership
- ix. *Director of Operations
- x. *Director of People & Organisational Development
- xi. *Associate Director of Nursing & Therapies (Mental Health)
- xii. *Associate Director of Nursing & Therapies (Physical Health)/ Director of Infection Prevention and Control (DIPC)
- xiii. *Clinical Director CWP Central
- xiv. *Clinical Director CWP East
- xv. *Clinical Director CWP West
- xvi. *Clinical Director CWP Wirral
- xvii. *Service Director CWP West
- xviii. *Service Director CWP East
- xix. *Service Director CWP Wirral
- xx. Associate Director of Safe Services
- xxi. Associate Director of Effective Services
- xxii. Associate Director of Patient & Carer Experience
- xxiii. Associate Director of Performance & Redesign
- xxiv. *Head of Clinical Governance
- xxv. *Head of Compliance
- xxvi. *Head of Effective Services

*or their nominated representative who will be sufficiently senior and have the authority to make decisions

+responsive attendance based on agenda
(otherwise core members)

If core members cannot attend meetings, they must ensure that a nominated deputy attends.

The following individuals may be in attendance at meetings:
Sub Committee Secretary
Governors

Members can participate in meetings by two-way audio link including telephone, video or computer link (excepting email communication). Participation in this way shall be deemed to constitute presence in person at the meeting and count towards the quorum.

The Board of Directors will appoint one of the members to be Chair and another Vice Chair from the outset. The Vice Chair will automatically assume the authority of the Chair should the latter be absent.

a. Quorum

A quorum shall be 50% of core membership including the Chair or Vice Chair, two Executive Directors, two Non Executive Directors (which can include the Chair) and a representative from each CWP locality.

b. Voting

Each member will have one vote with the Chair having a second and casting vote, if required. Should a vote be necessary, a decision will be determined by a simple majority.

c. Attendance by members

Core members identified above will be required to attend a minimum of 50% of all meetings in-year; this is in addition to the requirement to ensure that a nominated deputy attends.

d. Attendance by officers

Officers and staff of the Trust will be invited to attend the meeting as appropriate when an issue relating to their area of operation or responsibility is being discussed.

4. Accountability and reporting arrangements

The Quality Committee will be accountable to the Board of Directors.

The minutes of the Quality Committee will be formally recorded and submitted to the Board of Directors. The Chair of the Quality Committee shall draw to the attention of the Board of Directors any issues that require disclosure to it, or require executive action, via a Chair's report.

Approved minutes will also be circulated to the Audit Committee and Operational Board for information.

Members of the Quality Committee will provide reports to the Audit Committee on assurances relating to the effective operation of controls and in the event of a significant risk arising, the risk will be reported as per the Trust's integrated governance framework and risk management processes.

5. Frequency

Meetings shall be held every two months, with at least 5 meetings per year, and additional meetings may be arranged from time to time, if required, to support the effective functioning of the Trust.

6. Authority

The Quality Committee is authorised by the Board of Directors to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Quality Committee.

The Quality Committee is authorised to obtain legal or other independent professional advice and to secure the attendance of other parties with relevant experience and expertise to facilitate its understanding of the issues if it considers necessary.

7. Monitoring effectiveness

The Committee will undertake an annual review of its performance against its duties in order to evaluate its achievements.

8. Administration

The Committee shall be supported administratively by a member of the corporate affairs/ board support team, whose duties in this respect will include:

- Agreement of the agenda with the Chair
- Collation and review of reports
- Distribution of agenda and reports to members in accordance with the Trust's corporate governance standards
- Taking the minutes of the meeting
- Preparing a record of actions
- Advising the Committee on pertinent areas

9. Review

These terms of reference will be reviewed at least annually by the Committee.

Date reviewed by Committee	May 2016
Date approved by Board of Directors	May 2016
Review date	As per 2017/18 business cycle

4cii. Operational Board

Terms of Reference

1. Constitution

The Board of Directors hereby resolves to establish a committee to be known as Operational Board.

2. Duties

The Operational Board is responsible for receiving assurance on the organisational "operating model" (excepting quality, for which the Board of Directors has established the Quality Committee) and ensuring that the priorities in this respect are identified, implemented and monitored, specifically:

- Operational performance
- Finance and use of resources
- Strategic change

The Operational Board's duties can be categorised as:

- Receiving assurance on the operational performance of the Trust and ensuring that any escalated issues are addressed or escalated to the Board of Directors as appropriate by:
 - Monitoring progress with operational priorities via key milestone compliance reports from "Project Vision", complemented by receiving assurance of operational delivery and impact for those priorities associated with service transformation.
 - Monitoring the operational metrics detailed in the CWP performance dashboard, complemented by receiving assurance that plans are in place to address issues associated with metrics that monitor the effectiveness of care and service delivery ("right care, right time, right place").
 - Receiving the outputs of performance reviews and receiving assurance that actions identified to improve operational performance are being delivered.
- Review of the Trust's proposed annual financial plans (including efficiency schemes and the capital plan) and monitoring the financial performance of the Trust.
- Oversight of the development of Trust strategy and monitoring the development, completion and delivery of the forward operational and strategic plans, in accordance with regulatory requirements. In monitoring such plans, this includes holding workstream sponsors and leads to account for delivery, by challenging performance, empowering them to make decisions, supporting the workstreams when issues arise and unblocking barriers to success by:
 - Reviewing the workstream reports with the workstream lead and executive sponsor to assess

- progress against plan/s and review variance agreeing rectification plans.
- Taking decisions to support the continued delivery of the plan/s.
- Providing constructive challenge to workstreams in the delivery of their plan/s.
- Authorising new schemes and sign-off change control forms where variance to current schemes occurs.
- Fostering a culture of support, recognising the Trust-wide, collective effort to deliver the organisation's priorities.
- Receiving and reviewing the locality operational risks, in line with the Trust's integrated governance framework, to promote the principles of "sensitivity to operations" in real and near real time. This includes:
 - Monitoring progress made in mitigating the risks.
 - Identifying any areas where additional assurance is required.
 - Identifying where further support is needed.
 - Escalating to the Board of Directors as agreed by Operational Board members.
- Receiving reports from the Board of Directors and Quality Committee for information, context, assurance and/ or action as appropriate.
- On behalf of the Board of Directors, receiving assurance of delivery of changes to operational delivery identified as a result of serious incident investigations, providing this assurance to the Quality Committee upon receipt.
- Approving the terms of reference and membership of its reporting sub committees and programme (sub) boards and overseeing the work of those sub committees, receiving reports from them for consideration and action as necessary and routinely receiving the Chair's reports and minutes of their meetings.

3. Membership

Membership will be appointed by the Board of Directors and will consist of the following:

- Chief Executive (Chair)
- Executive Directors (one of whom shall be Vice Chair)
- Locality Clinical Directors
- Service Directors
- General Managers
- ⁺Associate Directors
- ⁺Operational Plan project management leads
- ⁺Lived Experience Advisor Representative
- Staff Side Representative

⁺responsive attendance based on agenda
(otherwise core members)

If core members cannot attend meetings, they must ensure that a nominated deputy attends.

The following individuals may be in attendance at meetings:
Committee Secretary

Members can participate in meetings by two-way audio link including telephone, video or computer link (excepting email communication). Participation in this way shall be deemed to constitute presence in person at the meeting and count towards the quorum.

The Board of Directors will appoint one of the members to be Chair and another Vice Chair from the outset. The Vice Chair will automatically assume the authority of the Chair should the latter be absent.

a. Quorum

A quorum shall be 50% of core membership including the Chair or Vice Chair and a representative from each CWP locality.

b. Voting

Each member will have one vote with the Chair having a second and casting vote, if required. Should a vote be necessary, a decision will be determined by a simple majority.

c. Attendance by members

Core members identified above will be required to attend a minimum of 50% of all meetings in-year; this is in addition to the requirement to ensure that a nominated deputy attends.

d. Attendance by officers

Officers and staff of the Trust will be invited to attend the meeting as appropriate when an issue relating to their area of operation or responsibility is being discussed.

10. Accountability and reporting arrangements

The Operational Board will be accountable to the Board of Directors.

The minutes of the Operational Board will be formally recorded and submitted to the Board of Directors. The Chair of the Operational Board shall draw to the attention of the Board of Directors any issues that require disclosure to it, or require executive action, via a Chair's report.

Approved minutes will also be circulated to the Audit Committee and Quality Committee for information.

Members of the Operational Board will provide reports to the Audit Committee on assurances relating to the effective operation of controls and in the event of a significant risk arising, the risk will be reported as per the Trust's integrated governance framework and risk management processes.

11. Frequency

Meetings shall be held monthly, excepting August, with at least 10 meetings per year, and additional meetings may be arranged from time to time, if required, to support the effective functioning of the Trust.

12. Authority

The Operational Board is authorised by the Board of Directors to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to co-operate with any request made by the Operational Board.

The Operational Board is authorised to obtain legal or other independent professional advice and to secure the attendance of other parties with relevant experience and expertise to facilitate its understanding of the issues if it considers necessary.

13. Monitoring effectiveness

The Operational Board will undertake an annual review of its performance against its duties in order to evaluate its achievements.

14. Administration

The Operational Board shall be supported administratively by a member of the corporate affairs/ board support team, whose duties in this respect will include:

- Agreement of the agenda with the Chair
- Collation and review of reports
- Distribution of agenda and reports to members in accordance with the Trust's corporate governance standards
- Taking the minutes of the meeting
- Preparing a record of actions
- Advising the Committee on pertinent areas

15. Review

These terms of reference will be reviewed at least annually by the Operational Board.

Date reviewed by Committee	15 June 2016
Date approved by Board of Directors	Pending
Review date	As per 2017/18 business cycle

5. Scheme of delegation (incl. the NHS FT Accounting Officer Memorandum)

5.1 Introduction

5.1.1 Reservation of powers

The Trust's Standing Orders provide that "Subject to the scheme of reservation and delegation, and such directions as may be given by statute, the independent regulator or the Secretary of State, the Board may make arrangements for the exercise, on behalf of the Foundation Trust, of any of its functions by a committee or subcommittee, or by a Director or an officer of the Trust in each case subject to such restrictions and conditions as the Board things fit." The Code of Accountability also requires that there should be a formal schedule of matters specifically reserved to the Foundation Trust Board of Directors.

The purpose of this document is to detail how the powers are reserved to the Board of Directors, while at the same time delegating to the appropriate level the detailed application of Foundation Trust policies and procedures. The Board of Directors remains accountable for all of its functions, even those delegated to committees, subcommittees, individual directors or officers. A formal structure is in place for monitoring the functions delegated to committees and subcommittees enabling the Board to receive information and to maintain its monitoring role.

5.1.2 Role of the Chief Executive

All powers of the Foundation Trust which have not been retained as reserved by the Board of Directors or delegated to an executive committee or sub-committee shall be exercised on behalf of the Board of Directors by the Chief Executive. The Chief Executive shall prepare a Scheme of Delegation identifying which functions they shall perform personally and which functions have been delegated to other directors and officers for operational responsibility.

All powers delegated by the Chief Executive can be re-assumed by them should the need arise.

5.1.3 Caution over the Use of Delegated Powers

Powers are delegated to directors and officers on the understanding that they would not exercise delegated powers in a manner which in their judgement was likely to be a cause for public concern.

5.1.4 Absence of Directors or Officer to whom Powers have been delegated

In the absence of a director or officer to whom powers have been delegated those powers shall be exercised by that director or officer's superior unless alternative arrangements have been approved by the Board of Directors. If the Chief Executive is absent powers delegated to them may be exercised by the nominated officer(s) acting in their absence after taking appropriate financial advice, two directors will be required to ratify any decisions within the Chief Executive's thresholds.

Further details about situations where the Accounting Officer is unable to fully discharge their responsibilities are available in the Accounting Officers' Memorandum, sections of which are reproduced below and which is available separately from NHS Improvement.

5.2 Delegation of powers

5.2.1 Delegation to committees

The Board of Directors may determine that certain of its powers shall be exercised by Standing Committees. The composition and terms of reference of such committees shall be that determined by the Board of

Directors. The Board of Directors shall determine the reporting requirements in respect of these committees. In accordance with Standing Order 7.18 committees may not delegate executive powers to sub-committees unless expressly authorised by the Board of Directors.

5.2.2 Delegation to Officers

Standing Orders and Standing Financial Instructions set out in some detail the financial responsibilities of the Chief Executive, the Director of Finance and other directors.

5.2.3 The Accounting Officer Memorandum

The responsibilities of the Accounting Officer are set out in the NHS Foundation Trust Accounting Officer Memorandum¹, relevant sections of which are reproduced below:

Introduction

The NHS Act 2006 (the Act) designates the Chief Executive of an NHS Foundation Trust as the Accounting Officer.

The Act specifies that the Accounting Officer has the duty to prepare the accounts in accordance with the Act. The Accounting Officer has the personal duty of signing the Trust's accounts. By virtue of this duty, the Accounting Officer has the further duty of being a witness before the Committee of Public Accounts (PAC) to deal with questions arising from those accounts or, more commonly, from reports made to Parliament by the Comptroller and Auditor General (C&AG) under the National Audit Act 1983.

Associated with these duties are the further responsibilities which are the subject of the Memorandum. It is incumbent on the Accounting Officer to combine these duties with their duties to the Board of Directors of the Trust.

General responsibilities

The Accounting Officer has responsibility for the overall organisation, management and staffing of the Trust and for its procedures in financial and other matters. "The accounting officer must ensure the foundation trust delivers efficient and economical conduct of its business and safeguards financial propriety and regularity throughout the organisation; the accounting officer must ensure financial considerations are fully taken into account in decisions by the NHS foundation trust"

Specific responsibilities

- *The specific personal responsibilities of the Accounting Officer are:*
- *The propriety and regularity of the public finances for which they are answerable*
- *The keeping of proper accounts*
- *Prudent and economical administration*
- *The avoidance of waste and extravagance; and*
- *The efficient and effective use of all the resources in their charge*

The Accounting Officer must:

- *Personally sign the accounts and, in doing so accept personal responsibility for ensuring their proper form and content as prescribed by NHS Improvement*
- *Comply with the financial requirements of the terms of authorisation*
- *Ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management, as well as in the form prescribed for published accounts*

¹ NHS Foundation Trust Accounting Officer Memorandum, Monitor (5 August 2015)

- *Ensure that the resources for which they are responsible as Accounting Officer are properly and well managed and safeguarded, with independent and effective checks of cash balances in the hands of any official*
- *Ensure that assets for which they are responsible such as land, buildings and other property, including stores and equipment, are controlled and safeguarded with similar care, and with checks as appropriate*
- *Ensure that conflicts of interest are avoided, whether in the proceedings of the Board of Directors, Council of Governors or in the actions or advice of the Trust's staff, including themselves*
- *Ensure that, in the consideration of policy proposals relating to the expenditure for which they are responsible as Accounting Officer, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and brought to the attention of the Board of Directors.*

The Accounting Officer will ensure that effective management systems appropriate for the achievement of the Trust's objectives, including financial monitoring and control systems have been established. The Accounting Officer will ensure that managers at all levels:

- *Have a clear view of their objectives, and the means to assess and, wherever possible, measure outputs or performance in relation to those objectives*
- *Are assigned well defined responsibilities for making the best use of resources including a critical scrutiny of output and value for money*
- *Have the information (particularly about cost), training and access to the expert advice which they need to exercise their responsibilities effectively.*

The Accounting Officer will make sure that their arrangements for delegation promotes good management and that they are supported by the necessary staff with an appropriate balance of skills. Arrangements for internal audit will accord with the objectives, standards and practices as set out in the Government Internal Audit Standards.

Absence of the Accounting Officer

The Accounting Officer will ensure that they are generally available for consultation and that in any temporary period of unavailability due to illness or other cause, or during the normal period of annual leave, there will be a senior officer in the Trust who can act on their behalf if required.

If it becomes clear to the Board of Directors that the Accounting Officer is so incapacitated that they will be unable to discharge these responsibilities over a period of four weeks or more, the Board of Directors should appoint an acting Accounting Officer, usually the Director of Finance, pending the Accounting Officer's return. The same applies if, exceptionally, the Accounting Officer plans an absence of more than four weeks during which he or she cannot be contacted.

Where the Accounting Officer is unable by reason of incapacity or absence to sign the accounts in time for submission, the Trust will submit unsigned copies pending the Accounting Officer's return. If the Accounting Officer is unable to sign the accounts in time for printing, the acting Accounting Officer should sign instead.

5.3 Schedule of Delegated Authority

Delegated matters in respect of decisions which may have a far reaching effect must be reported to the Chief Executive. The 'Delegated to' authority is in accordance with the Standing Orders and Standing Financial Instructions. The 'Operational Responsibility' shown below is the lowest level to which authority is delegated.

Table A - Delegated Authority
Table B - Delegated Financial Limits

Delegation to lower levels is only permitted with written approval of the Chief Executive who will, before authorising such delegation, consult with other Senior Managers as appropriate.

Table A – Delegated Authority

Delegated matter	Delegated to ²	Operational responsibility
1. Standing Orders (SOs) and Standing Financial Instructions (SFIs)		
a. Final authority in interpretation of Standing Orders	Chair	Chair
b. Notifying Directors, employees and governors of their responsibilities within the Standing Orders and Standing Financial Instructions and ensuring that they understand the responsibilities	Chief Executive	All Line Managers
c. Responsibility for security of the Foundation Trust's property, avoiding loss, exercising economy and efficiency in using resources and conforming to Standing Orders, Standing Financial Instructions and financial procedures	Chief Executive	All Directors and Employees
d. Suspension of Standing Orders	Board of Directors	Board of Directors
e. Review suspension of Standing Orders	Audit Committee	Audit Committee
f. Variation or amendment to Standing Orders	Board of Directors	Audit Committee
g. Emergency powers relating to the authorities retained by the Board of Directors	Chair and Chief Executive with two non-executives	Chair and Chief Executive with two non-executives
h. Disclosure of non-compliance with Standing Orders to the Chief Executive (report to the Board of Directors)	All staff	All staff
i. Disclosure of non-compliance with SFIs to the Director of Finance (report to the Audit Committee)	All staff	All staff
j. Advice on interpretation or application of SFIs and this Scheme of Delegation	Director of Finance	Director of Finance / Internal Audit
2. Audit arrangements		
a. To make recommendations to the Council of Governors in respect of the appointment, re-appointment and removal of the external auditor and to approve the remuneration in respect of the external auditor	Audit Committee (for recommendation to the Council of Governors for approval)	Director of Finance
b. Monitor and review the effectiveness of the internal audit function	Audit Committee	Director of Finance
c. Review, appraise and report in accordance with Government Internal Audit Standards (GIAS) and best practice	Audit Committee	Head of Internal Audit
d. Provide an independent and objective view on internal control and probity	Audit Committee	Internal Audit / External Audit
e. Ensure cost-effective audit service	Audit Committee	Director of Finance
f. Implement recommendations	Chief Executive	Relevant Officers
3. Authorisation of Clinical Trials & Research Projects		

² If the Chief Executive is absent powers delegated to them may be exercised by the nominated officer(s) acting in their absence after taking appropriate financial advice, two directors will be required to ratify any decisions within the Chief Executive's thresholds.

Delegated matter	Delegated to ²	Operational responsibility
	Chief Executive	Medical Director (Compliance, Quality & Assurance)
4. Authorisation of New Drugs		
	Chief Executive	Medical Director (Compliance, Quality & Assurance) with advice from the Medicines Management Group
5. Bank Accounts/Cash (including on Trust (Charitable / Non Charitable))		
a. Operation: Managing banking arrangements and operation of bank accounts (Board of Directors approves arrangements)	Director of Finance	Senior Financial Controller
b. Opening bank accounts	Director of Finance	Senior Financial Controller
c. Authorisation of transfers between bank accounts	Director of Finance	In accordance with bank mandate / internal procedures
d. Approve and apply arrangements for the electronic transfer of funds.	Director of Finance	In accordance with bank mandate / internal procedures
e. Authorisation of: BACS schedules Automated payment schedules Manual cheques	Director of Finance	In accordance with bank mandate / internal procedures
f. Investments: Investment of surplus funds in accordance with Treasury Management Investment Policy	Director of Finance	Deputy Director of Finance / Senior Financial Controller
g. Preparation of investment procedures	Director of Finance	Senior Financial Accountant
h. Petty Cash	Director of Finance	See Delegated Limits Table B (section 3)
6. Capital Investment		
a. Programme: Ensure that there is adequate appraisal and approval process for determining capital expenditure priorities and the effect that each has on Business Plans	Chief Executive	Director of Finance
b. Preparation of Capital Investment Programme	Chief Executive	Director of Finance
c. Preparation of a business case	Chief Executive	General Manager and Associate Director of Effectiveness with advice from other appropriate Associate Directors Deputy Director of Finance / Business Accountant

Delegated matter	Delegated to ²	Operational responsibility
d. Financial monitoring and reporting on all capital scheme expenditure including variations to contract	Director of Finance	Associate Director of Operations: Estates and Infrastructure / Senior Financial Controller
e. Authorisation of capital requisitions	Chief Executive	See Delegated Limits Table B (Sections 1 & 2)
f. Assessing the requirements for the operation of the construction industry taxation deduction scheme	Director of Finance	Senior Financial Controller
g. Responsible for the management of capital schemes and for ensuring that they are delivered on time and within cost	Chief Executive	Associate Director of Operations: Estates and Infrastructure
h. Ensure that capital investment is not undertaken without availability of resources to finance all revenue consequences	Chief Executive	Director of Finance
i. Issue procedures to support: Capital investment Staged payments	Chief Executive	Senior Financial Controller
j. Issue procedures governing financial management, including variation to contract, of capital investment projects and valuation for accounting purposes	Director of Finance	Senior Financial Controller
k. Issuing the capital scheme project manager with specific authority to commit capital, proceed / accept tenders in accordance with the standing orders and SFIs	Chief Executive	Director of Finance
l. Private Finance: Demonstrate that the use of private finance represents best value for money and transfers risk to the private sector. Proposal to use PFI must be specifically agreed by the Board of Directors.	Chief Executive Board of Directors	Director of Finance
m. Leases (property and equipment) in accordance Delegated Limits Table B (Section 5)	Chief Executive	Chief Executive / Director of Finance
n. Occupation Agreements/Licences in accordance Delegated Limits Table B (Section 5)	Chief Executive	Deputy Director of Finance
7. Clinical Audit		
	Chief Executive	Medical Director (Compliance, Quality & Assurance) / Clinical Audit Department / Clinical Directors / Associate Medical Director (Compliance, Quality & Assurance)
8. Commercial Sponsorship		
Agreement to proposal	Chief Executive	Director of Finance
9. Complaints		

Delegated matter	Delegated to ²	Operational responsibility
a. Overall responsibility for ensuring that all complaints are dealt with effectively	Chief Executive	Director of Nursing, Therapies and Patient Partnership Associate Director: Safe Services
b. Responsibility for ensuring complaints relating to a service unit are investigated thoroughly	Chief Executive	General Managers
c. Medico - Legal Complaints. Coordination of their management	Chief Executive	Director of Nursing, Therapies and Patient Partnership Associate Director: Safe Services
10. Confidential Information		
a. Review of the Trust's compliance with the Caldicott report on protecting patients' confidentiality in the NHS	Chief Executive	Caldicott Guardian (Medical Director, Effectiveness, Medical Education & Medical Workforce)
b. Freedom of Information Act compliance code	Chief Executive	Caldicott Guardian (Medical Director, Effectiveness, Medical Education & Medical Workforce)
11. Controlled drugs accountable officer		
	Chief Pharmacist	Chief Pharmacist
12. Data Protection Act		
Review of Trust's compliance	Chief Executive	Caldicott Guardian (Medical Director, Effectiveness, Medical Education & Medical Workforce)
13. Declaration of Interests		
a. Maintaining a register of interests	Chief Executive	Head of Corporate Affairs
b. Declaring relevant and material interests	Board of Directors and Council of Governors	Board of Directors/Council of Governors/ Senior Managers/Consultants
14. Disposals and Condemnations		

Delegated matter	Delegated to ²	Operational responsibility
a. Items obsolete, redundant, irreparable or cannot be repaired cost effectively	Director of Finance	(Clinical Director/ General Manager / Department Heads) – Approved in accordance with Delegated Limits, Table B Section 11 Head of Supplies / Senior Financial Controller
b. Develop arrangements for the sale of assets	Director of Finance	(Clinical Director/ General Manager / Department Heads) – Approved in accordance with Delegated Limits, Table B Section 11 Head of Supplies / Senior Financial Controller
15. Environmental Regulations		
Review of compliance with environmental regulations, for example those relating to clean air and waste disposal	Chief Executive	Associate Director of Operations: Estates and Infrastructure
16. External Borrowing		
a. Advise Board of Directors of the requirements to repay / draw down Public Dividend Capital	Director of Finance	Deputy Director of Finance / Senior Financial Controller
b. Approve a list of employees authorised to make short term borrowings for the Trust	Board of Directors	Chief Executive, Director of Finance
c. Application for draw down of Public Dividend Capital (PDC), overdrafts and other forms of external borrowing	Chief Executive / Director of Finance	PDC - Deputy Director of Finance / Senior Financial Controller All others - Director of Finance
d. Preparation of procedural instructions concerning applications for loans and overdrafts	Director of Finance	Senior Financial Controller
17. Financial Planning / Budgetary Responsibility		
Budget setting		
a. Submit budgets to the Board of Directors	Director of Finance	Director of Finance
b. Submit to the Board of Directors financial estimates and forecasts	Director of Finance	Director of Finance
c. Compile and submit to the Board of Directors a Business Plan which takes into account financial targets and forecast limits of available resources. The Business Plan will contain: a statement of the significant assumptions on which the plan is based; details of major changes in workload, delivery of services or resources required to achieve the plan	Chief Executive	Director of Finance / Director of Operations
Budget monitoring		

Delegated matter	Delegated to ²	Operational responsibility
d. Devise and maintain systems of budgetary control	Director of Finance	Deputy Director of Finance / Business Accountant
e. Monitor performance against budget	Director of Finance	Deputy Director of Finance / Business Accountant
f. Delegate budgets to budget holders	Chief Executive	Director of Finance
g. Ensuring adequate training is delivered to budget holders to facilitate their management of the allocated budget	Director of Finance	Deputy Director of Finance / Business Accountant
h. Submit in accordance with NHS Improvement's requirements for financial monitoring returns	Chief Executive	Director of Finance
i. Identify and implement cost improvements and income generation activities in line with the Business Plan	Chief Executive	All budget holders
j. Preparation of annual accounts	Director of Finance	Deputy Director of Finance / Senior Financial Controller
k. Preparation of annual report	Chief Executive	Head of Corporate Affairs/ Head of Communications
Budget responsibilities		
l. Ensure that: <ul style="list-style-type: none"> no overspend or reduction of income that cannot be met from virement is incurred; approved budget is not used for any other than specified purpose subject to rules of virement; no permanent employees are appointed without the approval of the Chief Executive other than those provided for within available resources and manpower establishment 	Director of Finance	Budget Holders
Virement		
m. It is not possible for any officer to vire from non-recurring budgets to recurring budgets or from capital to revenue / revenue to capital. Virement between different budget holders requires the agreement of both parties.	Chief Executive	Refer To Delegated Limits Table B Section 10
Financial procedures and systems		
n. Maintenance and updating of Trust Financial Procedures	Director of Finance	Deputy Director of Finance
o. Responsibility for: <ul style="list-style-type: none"> Implementing the Trust's financial policies and co-ordinate corrective action Ensuring that adequate records are maintained to explain the Trust's transactions and financial position. Providing financial advice to members of the Board of Directors and staff Ensuring that appropriate statutory records are maintained Designing and maintaining compliance with all financial systems 	Director of Finance	Deputy Director of Finance
18. Fire precautions		

Delegated matter	Delegated to ²	Operational responsibility
Ensure that the Fire Precaution and Prevention policies and procedures are adequate and that fire safety and integrity of the estate is intact	Chief Executive	Associate Director of Operations: Estates and Infrastructure
19. Fixed assets		
a. Maintenance of asset register including asset identification and monitoring	Chief Executive	Senior Financial Controller
b. Ensuring arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with CONCODE and ESTATECODE	Director of Finance	Associate Director of Operations: Estates and Infrastructure / Senior Financial Controller
c. Calculate and pay capital charges in accordance with the requirements of the Department of Health	Director of Finance	Senior Financial Controller
d. Responsibility for security of Trust's assets including notifying discrepancies to the Director of Finance and reporting losses in accordance with Trust procedures.	Chief Executive	All staff
20. Fraud (See also 27 & 39)		
a. Monitor and ensure compliance with Secretary of State Directions on fraud and corruption including the appointment of the Local Anti Fraud Specialist	Audit Committee	Local Anti Fraud Specialist
b. Notify Anti Fraud and Security Management Service and External Audit of all suspected Frauds	Director of Finance	Local Anti Fraud Specialist
21. Funds Held on Trust (Charitable and Non Charitable Funds)		
a. Appropriate management of funds held on trust	Charity Board of Trustees	Senior Financial Controller
b. Maintenance of authorised signatory list	Director of Finance	Senior Financial Controller
c. Expenditure Limits	Director of Finance	See Delegated Limits Table B Section 8
d. Developing systems for receiving donations	Director of Finance	Senior Financial Controller
e. Dealing with legacies	Director of Finance	Senior Financial Controller
f. Fundraising appeals	Charity Board of Trustees	Senior Financial Controller
g. Preparation and monitoring of budget	Director of Finance	Senior Financial Controller
h. Reporting progress and performance against budget	Director of Finance	Senior Financial Controller
i. Operation of Bank Accounts - managing banking arrangements and operation of bank accounts	Director of Finance	Senior Financial Controller
j. Opening bank accounts	Director of Finance	Senior Financial Controller
k. Appointing Investment Manager	Charity Board of Trustees	Charity Board of Trustees
l. Placing investment transactions.	Director of Finance	Senior Financial Controller
m. Regulation of funds with Charities Commission	Director of Finance	Senior Financial Controller
22. Gifts and hospitality		

Delegated matter	Delegated to ²	Operational responsibility
Keeping of gifts and hospitality register	Chief Executive	Head of Corporate Affairs
23. Health and Safety		
Review of all statutory compliance with legislation and Health and Safety requirements including control of Substances Hazardous to Health Regulations	Chief Executive	Director of Operations
24. Infectious Diseases and Notifiable Outbreaks		
	Chief Executive	Director of Nursing, Therapies & Patient Partnership and Director of Infection Prevention & Control
25. Information Management & Technology		
Financial Systems:		
Developing financial systems in line with the Trust's IM&T strategy	Director of Finance	Deputy Director of Finance
Implementing new systems to ensure they are developed in a controlled manner and thoroughly tested	Director of Finance	Deputy Director of Finance
Seeking third party assurances regarding financial systems operated externally	Director of Finance	Deputy Director of Finance
Ensure that contracts for computer services for financial applications define responsibility re security, privacy, accuracy, completeness and timeliness of data during processing and storage	Director of Finance	Associate Director of Estates and Infrastructure
Ensure that risks to the Trust from use of IT are identified and considered and that disaster recovery plans are in place	Director of Finance	Associate Director of Estates and Infrastructure
26. Legal Proceedings		
a. Engagement of Trust's Solicitors / Legal Advisors	Chief Executive	Director of Finance
b. Approve and sign all documents which will be necessary in legal proceedings, i.e. executed as a deed	Chief Executive	Executive Directors
c. Sign on behalf of the Trust any agreement or document not requested to be executed as a deed	Chief Executive	Executive Directors
27. Losses and write-offs		
a. Prepare procedures for recording and accounting for losses and special payments including preparation of a Fraud Response Plan and informing Local Anti Fraud Management Services of frauds	Chief Executive	Director of Finance
b. Losses of cash due to theft, fraud, overpayment & others	Chief Executive	Director of Finance
c. Fruitless payments (including abandoned Capital Schemes)	Chief Executive	Director of Finance
d. Bad debts and claims abandoned	Chief Executive	Director of Finance

Delegated matter	Delegated to ²	Operational responsibility
e. Damage to buildings, fittings, furniture and equipment and loss of equipment and property in stores and in use due to: Culpable causes (e.g. fraud, theft, arson).	Chief Executive	Director of Finance
f. Reviewing appropriate requirement for insurance claims	Director of Finance	Deputy Director of Finance
28. Special payments		
a. Compensation payments by court order	Chief Executive	Chief Executive
b. Clinical negligence, covered by membership of CNST scheme	Chief Executive	Chief Executive
c. Ex-gratia payments To patients/staff for loss of personal effects For personal injury with or without legal advice Other ex-gratia payments	Chief Executive	Director of Finance Director of Nursing, Therapies & Patient Partnership Director of Finance
d. A register of all losses and special payments should be maintained by the Finance Department and made available for inspection	Director of Finance	Deputy Director of Finance
e. A report of all losses and special payments should be presented to the Operational Board	Director of Finance	Deputy Director of Finance
29. Medical		
a. Clinical Governance arrangements	Medical Director (Compliance, Quality & Assurance)	Medical Director (Compliance, Quality & Assurance)
b. Medical Leadership	Medical Director (Effectiveness, Medical Education & Medical Workforce)	Medical Director (Effectiveness, Medical Education & Medical Workforce)
c. Programmes of medical education	Medical Director (Effectiveness, Medical Education & Medical Workforce)	Medical Director (Effectiveness, Medical Education & Medical Workforce)
d. Medical staffing plans	Medical Director (Effectiveness, Medical Education & Medical Workforce)	Medical Director (Effectiveness, Medical Education & Medical Workforce)
e. Medical Research	Director of Research	Medical Director (Effectiveness, Medical Education & Medical Workforce)
30. Meetings		

Delegated matter	Delegated to ²	Operational responsibility
a. Calling meetings of the Board of Directors	Chair	Chair
b. Chair all Board of Director meetings and associated responsibilities	Chair	Chair
31. Mental Health Act Hospital Managers		
a. Receipt and scrutiny of admission documents (in accordance with Trust Mental Health Act 1983 policy number 6 in Mental Health Act manual)	Mental Health Act Administrators/any employee acting within that role and Nurse in charge of ward	Medical Director (Compliance, Quality & Assurance)
b. Transfer between hospitals (in accordance with Trust Mental Health Act 1983 policy number 9)	Nurse in charge of ward responsible clinicians	Medical Director (Compliance, Quality & Assurance)
c. Completion of documentation to support discharge of patient detained under the Mental Health Act 1983	Mental Health Act Administrators/any employee acting within that role	Medical Director (Compliance, Quality & Assurance)
d. Inform health and local authorities where a Tribunal for Mental Health hearing has been arranged so they are able to consider the need for a Section 117 (of the Mental Health Act 1983) care planning meeting beforehand	Mental Health Act Administrators/any employee acting within that role	Medical Director (Compliance, Quality & Assurance)
e. Provide information to detained patients and their relatives (in accordance with the Trust's Mental Health Act 1983 policy number 11)	Mental Health Act Administrators/any employee acting within that role and all registered nurses in mental health and learning disabilities	Medical Director (Compliance, Quality & Assurance)
f. Withholding of patient correspondence (in accordance with the Trust's Mental Health Act 1983 policy number 10)	Service Manager and Modern Matrons	Medical Director (Compliance, Quality & Assurance)
g. Access to Tribunals for Mental Health	Mental Health Act Administrators/any employee acting within that role involved in the care and treatment of detained patients and those subject to supervised community treatment	Medical Director (Compliance, Quality & Assurance)

Delegated matter	Delegated to ²	Operational responsibility
h. Duties in respect of victims of crime in relation to certain unrestricted Part 3 patients	Mental Health Act Administrators/any employee acting within that role and approved clinicians under the Mental Health Act 2007	Medical Director (Compliance, Quality & Assurance)
i. Power of Discharge under Section 23 of the Mental Health Act 1983	Committee of Associate Hospital Managers authorised by the Board of Directors	Medical Director (Compliance, Quality & Assurance)
32. Non pay expenditure		
a. Maintenance of a list of managers authorised to place requisitions/orders in accordance with Delegated Limits Table B Sections 1 & 2	Chief Executive	Senior Financial Controller
b. Obtain the best value for money when requisitioning goods / services	Chief Executive	Clinical Directors / General Managers / Department Heads / Head of Supplies
c. Non-Pay Expenditure for which no specific budget has been set up and which is not subject to funding under delegated powers of virement (subject to Delegated Limits Table B Section 2)	Chief Executive	Director of Finance
d. Develop systems for the payment of accounts	Director of Finance	Deputy Director of Finance / Senior Financial Controller
e. Prompt payment of accounts.	Director of Finance	Deputy Director of Finance / Senior Financial Controller
f. Financial Limits for ordering / requisitioning goods and services	Director of Finance	See Delegated Limits Table B Section 2
g. Approve prepayment arrangements	Director of Finance	Director of Finance
33. Nursing		
a. Compliance with statutory and regulatory arrangements relating to professional nursing and midwifery practice	Director of Nursing, Therapies & Patient Partnership	Deputy Director of Nursing
b. Matters involving individual professional competence of nursing staff	Director of Nursing, Therapies & Patient Partnership	Deputy Director of Nursing
c. Compliance with professional training and development of nursing staff	Director of Nursing, Therapies & Patient Partnership	Deputy Director of Nursing

Delegated matter	Delegated to ²	Operational responsibility
d. Quality assurance of nursing processes	Director of Nursing, Therapies & Patient Partnership	Deputy Director of Nursing
34. Patient Services Agreements		
a. Negotiation of Foundation Trust Contract and Non-Commercial Contracts	Chief Executive	Director of Finance / Deputy Director of Finance
b. Quantifying and monitoring out of area treatments	Director of Finance	Deputy Director of Finance / Corporate Business Accountant
c. Reporting actual and forecast income	Director of Finance	Deputy Director of Finance / Corporate Business Accountant
d. Costing Foundation Trust Contract and Non-Commercial Contracts	Director of Finance	Deputy Director of Finance / Corporate Business Accountant
e. Reference costing / Payment by Results	Director of Finance	Deputy Director of Finance / Corporate Business Accountant
f. Ad hoc costing relating to changes in activity, developments, business cases and bids for funding	Director of Finance	Deputy Director of Finance / Corporate Business Accountant
35. Patients' property (in conjunction with financial advice)		
a. Ensuring patients and guardians are informed about patients' monies and property procedures on admission	Chief Executive	General Managers / Department Head
b. Prepare detailed written instructions for the administration of patients' property	Director of Finance	Senior Financial Controller
c. Informing staff of their duties in respect of patients' property	Director of Finance	General Managers / Department Heads / Senior Financial Controller
d. Issuing property of deceased patients (See SFI 6.58.9, 6.58.10, 6.58.11). In accordance with Delegated Limits Table B Section 6	Director of Finance	General Office Staff / Senior Financial Controller
36. Human Resources		
a. Develop Human resource policies and strategies for approval by the Board of Directors including training, industrial relations	Director Nursing, Therapies & Patient Partnership	Associate Director of Workforce Development
b. Nomination of officers to enter into contracts of employment regarding staff, agency staff or consultancy service contracts	Chief Executive	Associate Director of Workforce Development / General Managers
c. Ensure that all employees are issued with a Contract of employment in a form approved by the Board of Directors and which complies with employment legislation	Director Nursing, Therapies & Patient Partnership	Associate Director of Workforce Development

Delegated matter	Delegated to ²	Operational responsibility
d. Renewal of Fixed Term Contract	Director of Operations	Budget Manager on advice from Business Accountant
Staff establishment and re-gradings		
e. Authority to fill funded post on the establishment with permanent staff	Director of Operations	Clinical Directors / General Managers / Department Heads
f. Additional staff to the agreed establishment with specifically allocated finance	Director of Finance	Clinical Director / Executive Director / General Managers
g. Additional staff to the agreed establishment without specifically allocated finance	Chief Executive	Director of Finance
h. Self-financing changes to an establishment	Director of Finance	Deputy Director of Finance / Business Accountant
i. Engagement of staff not on the establishment, including management Consultants	Chief Executive	Director of Finance
j. Booking of bank staff; Nursing	Director of Nursing, Therapies & Patient Partnership	Line Manager
Other	Clinical Directors	Line Manager
k. Re-grading requests (all requests shall be dealt with in accordance with Trust procedure)	Director of Operations	Clinical Directors / General Managers / Department Heads
Grievance and disciplinary procedures		
l. Operation of grievance procedure (all grievances cases must be dealt with strictly in accordance with the Grievance Procedure and the advice of the Director of Operations must be sought when the grievance reaches the level of Divisional General Managers / Heads of Department)	Director of Operations	As per Trust procedure
m. Operation of the disciplinary procedure (excluding Executive Directors)	Chief Executive	To be applied in accordance with the Trust's Disciplinary Procedure
Terms and conditions of employment		
n. Authorise car users: Lease car (in accordance with Trust policy) Regular user allowance	Director of Finance Director of Finance	Clinical Director / General Manager / Department Head
o. Authorise mobile phone use / issue, including blackberries	Director of Finance	Clinical Director / General Manager / Department Head
p. Removal Expenses, excess rent and house purchases (all staff in accordance with Delegated Limits Table B Section 7 provided that agreed at interview)	Director of Operations	Executive Director
Pay		
q. Presentation of proposals to the Board of Directors for the setting of remuneration and conditions of service for those staff not covered by the Nominations Committee	Chief Executive	Chief Executive

Delegated matter	Delegated to ²	Operational responsibility
r. Authority to complete standing data forms affecting pay, new starters, variations and leavers	Director of Operations	Clinical Directors / General Managers / Department Heads
s. Authority to complete and authorise staff attendance record	Director of Finance	Clinical Directors / General Managers / Department Heads
t. Authority to authorise overtime	Director of Operations / Director of Finance	Clinical Directors / General Managers / Department Heads
u. Authority to authorise travel and subsistence expenses	Director of Finance	Clinical Directors / General Managers / Department Heads
Annual and special leave (refer to leave policies)		
v. Approval of annual leave	Director of Operations	Departmental Manager (as per Trust policy)
w. Approval of annual leave carry forward (up to maximum of 5 days)	Chief Executive	Departmental Manager (as per Trust policy)
x. Approval of annual leave carry forward of over 5 days (to occur in exceptional circumstances only)	Chief Executive	Clinical Directors / General Managers / Department Heads
y. Compassionate leave	Director of Operations	Clinical Directors / General Managers / Head of Service
z. Special leave arrangements for domestic/ personal / family reasons including paternity leave, carers leave and adoption leave (to be applied in accordance with Trust Policy)	Director of Operations	Clinical Directors / General Managers / Department Heads
aa. Special Leave for non-domestic / personal / family reasons including jury service, armed services and school governorship (to be applied in accordance with Trust Policy)	Director of Operations	Clinical Directors / General Managers / Department Heads
bb. Leave without pay	Director of Operations	Clinical Directors / General Managers / Department Heads
cc. Medical Staff leave of absence – paid and unpaid	Director of Operations	Medical Director
dd. Time off in lieu	Director of Operations	Line / Departmental Manager
ee. Maternity Leave - paid and unpaid	Director of Operations	Automatic approval with guidance
Sick leave		
ff. Extension of sick leave on pay	Director of Operations	As per Trust policy
gg. Return to work part-time on full pay to assist recovery	Director of Operations	Clinical Directors / General Managers / Department Heads
Study leave		
hh. Study leave outside the UK	Chief Executive	Relevant Executive Director

Delegated matter	Delegated to ²	Operational responsibility
ii. Medical staff study leave (UK): Consultant Non Career Grade Career Grade	Medical Director	Associate Medical Director Post Graduate Tutor Associate Medical Director
jj. All other study leave (UK)	Director of Operations	Executive Directors / Clinical Director / General Managers / Department Heads
Retirement (including ill-health retirement)		
kk. Authorisation of extensions of contract beyond normal retirement age in exceptional circumstances	Chief Executive	Associate Director of Workforce Development
ll. Authorisation of return to work in part time capacity under the flexible retirement scheme	Chief Executive	Director of Operations
mm. Decision to pursue retirement on the grounds of ill-health following advice from the Occupational Health Department	Chief Executive	Director of Operations
Redundancy		
	Chief Executive / Director of Finance	Director of Operations
37. Quotation, tendering and contracting procedures		
a. Best value for money is demonstrated for all services provided under contract or in-house	Chief Executive	Director of Finance / Clinical Director / General Manager / Department Heads / Head of Supplies
b. Nominate officers to oversee and manage contracts on behalf of the Trust	Chief Executive	Director of Finance
c. Set competitive tender authorisation limits (see Delegated Limits Table B, section 1)	Chief Executive	Director of Finance
d. Maintain a register to show each set of competitive tender invitations despatched	Chief Executive	Head of Supplies
e. Receipt and custody of tenders prior to opening	Chief Executive	Director of Finance
f. Opening Tenders	Chief Executive	Two officers from the approved list as authorised by the Audit Committee
g. Decide if late tenders should be considered	Chief Executive	Director of Finance
h. Ensure that appropriate checks are carried out as to the technical and financial capability of the firms invited to tender or quote	Chief Executive	Director of Finance
i. Quotations	Chief Executive	See Delegated Limits Table B Section 1
j. Waiving the requirement to request tenders (subject to SFI 6.76, reported to the Board of Directors)	Chief Executive	Chief Executive or Director of Operations (in the absence of CEO) / Director of Finance or Deputy Director of Finance (in the absence of DoF)

Delegated matter	Delegated to ²	Operational responsibility
k. Waiving the requirement to request quotes (subject to SFI 6.76)	Chief Executive or Director of Finance	Deputy Director of Finance
38. Records		
a. Review Trust's compliance with the Records Management Code of Practice	Chief Executive	Executive Directors / Heads of Department
b. Ensuring the form and adequacy of the financial records of all departments	Director of Finance	Deputy Director of Finance
39. Reporting of Incidents to the Police		
a. Where a criminal offence is suspected: criminal offence of a violent nature arson or theft other	Chief Executive	Senior Manager On-call / General Manager / Department Heads
b. Where a fraud is involved (reporting to the Directorate of Anti Fraud Services)	Director of Finance	Local Anti Fraud Specialist
c. Deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption	Director of Finance	Local Anti Fraud Specialist
40. Risk Management		
a. Ensuring the Trust has a Risk Management Strategy and a programme of risk management	Chief Executive	Medical Director (Compliance, Quality & Assurance)
b. Developing systems for the management of risk	Medical Director	Associate Director: Safe Services
c. Developing incident and accident reporting systems	Director of Nursing	Associate Director: Safe Services
d. Compliance with the reporting of incidents and accidents	Director of Nursing	All staff
41. Seal		
a. The keeping of a register of seal and safekeeping of the seal	Chief Executive	Head of Corporate Affairs
b. Attestation of seal in accordance with Standing Orders	Chair/Chief Executive	Chair / Chief Executive (report to Board of Directors)
c. Property transactions and any other legal requirement for the use of the seal	Chair/Chief Executive	Chair or Non-Executive Director and the Chief Executive or their nominated Director
42. Security Management		
Monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management including appointment of the Local Security Management Specialist	Chief Executive	Director of Operations / Local Security Management Specialist
43. Setting of Fees and Charges (Income)		
a. Private Patient, Overseas Visitors, Income Generation and other patient related services	Director of Finance	Deputy Director of Finance
b. Non patient care income	Director of Finance	Deputy Director of Finance

Delegated matter	Delegated to ²	Operational responsibility
c. Informing the Director of Finance of monies due to the Trust	Director of Finance	All Staff
d. Recovery of debt	Director of Finance	Senior Financial Controller
e. Security of cash and other negotiable instruments	Director of Finance	Senior Financial Controller
44. Stores and Receipt of Goods		
a. Responsibility for systems of control over stores and receipt of goods, issues and returns	Director of Finance	Clinical Directors / General Managers / Department Heads / Head of Supplies
b. Stocktaking arrangements	Director of Finance	Clinical Directors / General Managers / Department Heads
c. Responsibility for controls over pharmaceutical stock	Designated Pharmaceutical officer	Ward Managers

Table B – Delegated Financial Limits

Delegated matter	Delegated limit	Operational responsibility
1. Quotations / Tenders		
	Limits as per Non Pay (2) below.	As per Non Pay (2) below
Quotations: <i>Obtain</i> a minimum of 3 written quotations for goods / services	£5,000 to £20,000	Head of Supplies / General Manager / Head of Department
Competitive Tenders: <i>Obtain</i> a minimum of 3 written competitive tenders for goods / services	Over £20,000 (must also comply with latest EC Directives as appropriate)	Two officers as per the approved signatory list
2. Non Pay Expenditure (subject to funding available in revenue budget and cash availability)³		
a) Requisitioning, ordering, payment of goods and services.	Over £250,000	Board of Directors to approve; Head of Corporate Affairs to action in IPROC
	Up to £250,000	Chief Executive
	Up to £150,000	Director of Finance
	Up to £50,000	Deputy Director of Finance
	Up to £30,000	Orders for capital works or revenue schemes only (£10,000 for other estates cost centres) – Head of Estates
	Up to £5,000	Budget Holders as per authorised signatory list
b) Amendments in year to capital scheme control totals. The original capital programme for the year having been approved by the Board of Directors	Whichever is the lower of 10% of the total capital programme approved by Board or £500k	Board of Directors to approve
	Up to £500K	Director of Finance
3. Petty Cash Disbursements (excluding purchase of provisions for residential clients)		
Sundry Exchequer Items and Patients' Monies	Over £100	Deputy Director of Finance or Nominated Deputy
	Up to £100	Petty Cash Imprest Holder or Cashier
4. Contracted Services		
Services covered by Contract, Service Level Agreement, on-going premature retirement, intra NHS invoices	Unlimited	Director of Finance / Deputy / Director of Finance
5a. Leases (property and equipment)		
Granting and termination of leases also should be reported to the Board of Directors	Annual rent £100,000 and above	Chief Executive / Director of Finance

³Amended in accordance with Board of Directors decision 7 December 2011

Delegated matter	Delegated limit	Operational responsibility
Granting and termination of leases	Annual rent below £100,000	Director of Finance
5b. Occupation Agreements/Licences		
	Unlimited	Deputy Director of Finance
5c. Leases (car contracts)		
	Over £15,000 (over 3 years)	Deputy Director of Finance
	Up to £15,000 (over 3 years)	Senior Financial Controller
6. Patients' Property (where deceased)		
Issuing property of deceased patients	Over £5,000	Deputy Director of Finance / Senior Financial Controller on production of probate or letters of administration
	Up to £5,000	Cashier / General Office Supervisor with completed indemnity form
7. Removal Expenses		
Removal expenses, excess rent and home purchase	Over £8,000	Nominations Committee
	Up To £8,000	Appropriate Executive Director (in conjunction with guidance from Human Resources)
8. Charitable Funds		
Expenditure authorisation (subject to availability of funds)	Over £5,000 Up to £5,000	Board of Trustees Chief Executive or Executive Director from Board of Trustees
9. Losses and Special Payments		
<u>Losses</u>	All	Chief Executive / Director of Finance subject to quarterly review by Operational Board
Losses of cash due to theft, fraud, overpayment & others		
Fruitless payments (including abandoned Capital Schemes)	All	
Bad debts and claims abandoned	All	
Damage to buildings, fittings, furniture and equipment and loss of equipment and property in stores and in use due to: culpable causes (e.g. fraud, theft, arson)	All	
<u>Special Payments</u>	All	Chief Executive / Director of Finance subject to quarterly review by Operational Board
Compensation payments by Court Order		
Clinical negligence – covered by membership of CNST scheme	All	
Ex Gratia Payments:	All	
To patients/staff for loss of personal effects	All	
For personal injury with or without legal advice	All	
Other ex gratia payments	All	

Delegated matter	Delegated limit	Operational responsibility
<u>Losses and Special Payments</u> All losses and special payments as above	Over £5,000	Chief Executive / Director of Finance
10. Virements (All virements need authorised signatures of budget holders)		
Within budget holder area of responsibility: Revenue to revenue	Unlimited	Budget Holder & Business Accountant
Outside budget holder area of responsibility: Revenue to revenue	Unlimited	Service Directors/Head of Clinical Support Services & Business Accountant
11. Asset Disposals & Condemnations		
	Over £5,000	Director of Finance / Deputy Director of Finance subject to Terms of Authorisation
	Up to £5,000	Budget Holder / Senior Financial Accountant / Capital Services Accountant
12. Bank Account Cheque Signatories		
	£1,000 and over Up To £1,000	Two signatories from the bank mandate One signatory from the bank mandate
13. Public Dividend Capital (PDC) from DoH		
	Unlimited	Two signatories on FT2 Request Form per latest TF4 Authorised Signatory Panel
14. BACS and Cheque Payment schedules		
	Unlimited	Two signatories per Authorised Signatory Panel
15. RFT1, CHAPS and Foreign Currency Payments		
	Unlimited	Two signatories per Authorised Signatory Panel
16. VAT Returns		
	Unlimited	Deputy Director of Finance / Senior Financial Controller
17. Short/Long Term Borrowing		
	Over £500,000 Up To £500,000	Board of Directors Director of Finance
18. Investments		
	Authorised Limits	In accordance with Treasury Management Policy

6. Standing Financial Instructions

6.1 Introduction

- 6.1.1 NHS Improvement, the Independent Regulator of NHS Foundation Trusts, sets the Terms of Authorisation/ Licence for the Foundation Trust. These require compliance with the principles of best practice applicable to corporate governance within the NHS / Health Sector and with any relevant code of practice and guidance issued by NHS Improvement.
- 6.1.2 The Code of Conduct and Accountability in the NHS⁴ issued by the Department of Health requires that each NHS organisation shall give, and may vary or revoke, Standing Financial Instructions for the regulation of the conduct of its members and officers in relation to all financial matters with which they are concerned. These Standing Financial Instructions (SFIs) are issued in accordance with the Code. They shall have effect as if incorporated in the Standing Orders (SOs) of the Foundation Trust.
- 6.1.3 The SFIs detail the financial responsibilities, policies and procedures to be adopted by the Foundation Trust. They are designed to ensure that its financial transactions are carried out in accordance with the law and government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Schedule of Decisions Reserved to the Board of Directors (Scheme of Reservation) and the Scheme of Delegation adopted by the Foundation Trust.
- 6.1.4 These SFIs identify the financial responsibilities, which apply to everyone working for the Foundation Trust (see also 6.2.2 and 6.2.3 below) and its constituent organisations including Trading Units. They do not provide detailed procedural advice. These statements should therefore be read in conjunction with the detailed departmental and financial procedure notes. The Director of Finance must approve all financial procedures.
- 6.1.5 Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Director of Finance **MUST BE SOUGHT BEFORE ACTING**. The user of these SFIs should also be familiar with and comply with the provisions of the Foundation Trust's SOs.

FAILURE TO COMPLY WITH STANDING FINANCIAL INSTRUCTIONS AND STANDING ORDERS IS A DISCIPLINARY MATTER, WHICH COULD RESULT IN DISMISSAL.

- 6.1.6 Overriding Standing Financial Instructions – If for any reason these Standing Financial Instructions 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 Audit Committee for referring action or ratification. All members of the Board of Directors and staff have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.

6.2 Terminology

- 6.2.1 Unless the contrary intention appears or the context otherwise requires, words or expressions contained in the Constitution bear the same meaning as in the National Health Service Act 2006. References in the Constitution to legislation include all amendments, replacements, or re-enactments made.
- 6.2.2 Wherever the title Chief Executive, Director of Finance, or other nominated officer is used in these instructions, it shall be deemed to include such other directors or employees who have been duly authorised to represent them.

⁴ Code of Conduct, Code of Accountability, Department of Health (1994 & 1997)
Corporate Governance Manual

6.2.3 Wherever the term "employee" is used and where the context permits it shall be deemed to include employees of third parties contracted to the Foundation Trust when acting on behalf of the Foundation Trust. This includes nursing and medical staff and consultants practising on the Foundation Trust premises and members of staff of the PFI (private finance initiative) contractor or trust staff working for the contractor under retention of employment model.

6.3 Responsibilities and Delegation

6.3.1 The Foundation Trust shall at all times remain a going concern as defined by the relevant accounting standards in force. The Board of Directors exercises financial supervision and control by:

- a) formulating the financial strategy;
- b) requiring the submission and approval of budgets within overall income;
- c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money) and by ensuring appropriate audit provision; and
- d) defining specific responsibilities placed on directors and employees as indicated in the Scheme of Delegation document.

6.3.2 The Constitution dictates that the Council of Governors may not delegate any of its powers to a committee or sub-committee. The Board of Directors has resolved that certain powers and decisions may only be exercised by the Board of Directors in formal session. These are set out in the Scheme of Reservation and Delegation Section of the Corporate Governance Manual. The Board of Directors will delegate responsibility for the performance of its functions in accordance with the Scheme of Delegation document adopted by the Foundation Trust.

6.3.3 Within the SFIs, it is acknowledged that the Chief Executive is ultimately accountable to the Board of Directors, and as the Accounting Officer for ensuring that the Board of Directors meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Foundation Trust's activities, is responsible to the Board of Directors for ensuring that its financial obligations and targets are met and has overall responsibility for the Foundation Trust's system of internal control.

6.3.4 The Chief Executive and Director of Finance will, as far as possible, delegate their detailed responsibilities but they remain accountable for financial control.

6.3.5 It is a duty of the Chief Executive to ensure that existing directors and employees and all new appointees are notified of and understand their responsibilities within these Instructions. All staff and governors shall be responsible for ensuring conformity with the SOs, SFIs and the financial procedures of the Foundation Trust.

6.3.6 The Director of Finance is responsible for:

- a) implementing the Foundation Trust's financial policies and for co-ordinating any corrective action necessary to further these policies;
- b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
- c) ensuring that sufficient records are maintained to show and explain the Foundation Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Foundation Trust at any time; and, without prejudice to any other functions of directors and

employees to the Foundation Trust, the duties of the Director of Finance include:

- d) the provision of financial advice to other members of the Board of Directors, Council of Governors and employees;
- e) the design, implementation and supervision of systems of internal financial control;
- f) the preparation and maintenance of such accounts, certificates, estimates, records and financial reports as the Foundation Trust may require for the purpose of carrying out its statutory duties.

6.3.7 All directors and employees, severally and collectively, are responsible for:

- a) the security of the property of the Foundation Trust;
- b) avoiding loss;
- c) exercising economy and efficiency in the use of resources;
- d) conforming to the requirements of SOs, SFIs, Financial Procedures and the Scheme of Delegation.

6.3.8 Any contractor or employee of a contractor who is empowered by the Foundation Trust to commit the Foundation Trust to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Chief Executive to ensure that such persons are made aware of this.

6.3.9 For any and all directors and employees who carry out a financial function, the form in which financial records are kept and the manner in which directors and employees discharge their duties must be to the satisfaction of the Director of Finance.

6.4 Audit

6.4.1 Audit Committee

6.4.1.1 In accordance with SOs the Board of Directors shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook and Foundation Trust governance requirements, which will provide an independent and objective view of internal control by:

- a) overseeing Internal and External Audit services;

Internal Audit to monitor and review the effectiveness of the internal audit function.

Ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee and the Board of Directors. The report must cover:

- a clear opinion on the effectiveness of internal controls in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards,
- major internal financial control weaknesses discovered,
- progress on the implementation of internal audit recommendations,
- progress against plan over the previous year,
- strategic audit plan,
- a detailed plan for the coming year.

External Audit:-

- to assess the external auditor's work and fees on an annual basis to ensure that the work is of sufficiently high standard and that the fees are reasonable.
 - to ensure a market testing exercise for the appointment of the external auditor is undertaken at least once every five years.
 - to make recommendations to the Council of Governors, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor.

 - to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into account relevant UK professional and regulatory requirements.
 - to develop and implement a policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance.
- b. reviewing financial and information systems and monitoring the integrity of the financial statements and any formal announcements relating to the Trust's financial performance, reviewing of significant financial reporting judgements;
- c. reviewing the effective implementation of corporate governance measures to enable the Foundation Trust to implement best practice as set out in appropriate guidance. This will include the Assurance Framework and control related disclosure statements, for example the Statement on Internal Control and supporting assurance processes; together with any accompanying audit statement, prior to endorsement by the Board of Directors.
- d. review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (clinical, operational, compliance controls and risk management systems), that supports the achievement of the organisation's objectives.
- 6.4.1.2 The Board of Directors shall satisfy itself that at least one member of the Audit Committee has recent and relevant financial experience.
- 6.4.1.3 Where the Audit Committee feel there is evidence of *ultra vires* transactions, evidence of improper acts, or if there are other important matters that the committee wish to raise, the chairman of the Audit Committee should raise the matter at a full meeting of the Board of Directors (to the Director of Finance in the first instance.)
- 6.4.1.4 It is the responsibility of the Director of Finance to ensure adequate internal and external audit services are provided and the Audit Committee shall be involved in the selection process when an audit service provider is changed.

6.5 Director of Finance

6.5.1 The Director of Finance is responsible for:

- a. ensuring there are arrangements to review, evaluate and report on the effectiveness of internal control including the establishment of an effective internal audit function and the coordination of other assurance arrangements;
- b. ensuring that the internal audit is adequate and meets the NHS mandatory audit standards;
- c. deciding at what stage to involve the police in cases of fraud, misappropriation, and other irregularities not involving fraud or corruption.

6.5.2 The Director of Finance or designated auditors are entitled without necessarily giving prior notice to require and receive:

- a. access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;
- b. access at all reasonable times to any land, premises, members of the Board of Directors and Council of Governors or employee of the Foundation Trust;
- c. the production of any cash, stores or other property of the Foundation Trust under a member of the Board of Directors or employee's control; and
- d. explanations concerning any matter under investigation.

6.6 Internal Audit

6.6.1 The NHS Foundation Trust Accounting Officer Memorandum requires the Foundation Trust to have an internal audit function.

6.6.2 Role of Internal Audit:-The role of internal audit embraces two key areas:

- The provision of an independent and objective opinion to the Accounting Officer, the Board of Directors and the Audit Committee on the degree to which risk management, control and governance support the achievement of the organisations agreed objectives.
- The provision of an independent and objective consultancy service specifically to help line management improve the organisation's risk management, control and governance arrangements.

Internal Audit will review, appraise and report upon:

- a. the extent of compliance with, and the financial effect of, relevant established policies, plans and procedures;
- b. the adequacy and application of financial and other related management controls;
- c. the suitability of financial and other related management data;
- d. the extent to which the Foundation Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
 - i) fraud and other offences,
 - ii) waste, extravagance, inefficient administration,
 - iii) poor value for money or other causes.
- e. Internal Audit shall also independently verify the Assurance Statements in accordance with guidance from the Department of Health.

6.6.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Finance must be notified immediately.

6.6.4 The Head of Internal Audit or their representative will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chairman and Chief Executive of the Foundation Trust.

6.6.5 The Head of Internal Audit shall be accountable to the Audit Committee. The reporting system for internal audit shall be agreed between the Director of Finance, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Manual. The reporting system shall be reviewed at least every 3 years. Where, in exceptional circumstances, the use of normal reporting channels

is thought to limit the objectivity of the audit, the Head of Internal Audit shall have access to report direct to the Chairman or a non-executive member of the Foundation Trust's Audit Committee.

6.6.6 Managers in receipt of audit reports referred to them, have a duty to take appropriate remedial action within the agreed time-scales specified within the report. The Director of Finance shall identify a formal review process to monitor the extent of compliance with audit recommendations. Where appropriate, remedial action has failed to take place within a reasonable period, the matter shall be reported to the Director of Finance.

6.7 External Audit

6.7.1 Duties

The Foundation Trust is to have an external auditor and is to provide the external auditor with every facility and all information which they may reasonably require.

The external auditor is to carry out their duties in accordance with Schedule 10 of the 2006 Act and in accordance with any directions given by the NHS Improvement on standards, procedures and techniques to be adopted.

In auditing the accounts the external auditor must, by examination of the accounts and otherwise, satisfy themselves that the Foundation Trust has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The Foundation Trust is required to include a statement on internal control within the financial statements. The external auditor has a responsibility to:

- consider the completeness of the disclosures in meeting the relevant requirements; and
- identify any inconsistencies between the disclosures and the information that they are aware of from their work on the financial statements and other work.

6.7.2 Appointment of External Auditor

The external auditor is appointed by the Council of Governors following recommendation from the Audit Committee. The Audit Code for NHS Foundation Trust ("the Audit Code") contains the directions of NHS Improvement, the Independent Regulator under the National Health Service Act 2006, with respect of the standards, procedures and techniques to be adopted by the external auditor.

A person may only be appointed as the external auditor if they (or in the case of a firm of each of its members) are a member of one or more of the bodies referred to in Schedule 10 of the 2006 Act.

The Council of Governors at a General Meeting shall appoint or remove the Foundation Trust's external auditor.

The Board of Directors may resolve that external auditors be appointed to undertake non-audit work for the Foundation Trust. Approval of the engagement of external auditors on non-audit work will take into account relevant ethical guidance regarding the provision of such services. The Audit Committee will approve such engagement where the cost is over £5,000 and the Director of Finance will inform the Audit Committee of any non-audit engagements below this figure. In all cases the Audit Committee will report them to the Council of Governors.

6.7.3 Undertaking Work

NHS Improvement may require auditors to undertake work on its behalf at the Foundation Trust. In this situation, a tripartite agreement between NHS Improvement, the auditor and the Foundation Trust will be agreed. This agreement, which will include details of the subsequent work and reporting arrangements, will be in accordance with the principles established in the guidance issued by the Institute of Chartered Accountants in England and Wales in audit 05/03: Reporting to Regulators or Regulated Entities.

The auditor may, with the approval of the Council of Governors, provide the Foundation Trust with services which are outside of the scope as defined in the code (additional services). The Foundation Trust shall adopt and implement a policy for considering and approving any additional services to be provided by the external auditor.

6.7.4 Liaison with Internal Audit

It is expected that the external auditors will liaise with the internal audit function in order to obtain a sufficient understanding of internal audit activities to assist in planning the audit and developing an effective audit approach. The external auditors may also wish to place reliance upon certain aspects of the work of internal audit in satisfying their statutory responsibilities as set out in the 2006 Act and the Audit Code. In particular the external auditor may wish to consider the work of internal audit when undertaking their procedures in relation to the statement on internal control.

6.7.5 Access to Documents

The external auditors of the Foundation Trust have a right of access at all reasonable times to every document relating to the Foundation Trust which appears to them necessary for the purpose of their functions under Schedule 10 of the 2006 Act.

6.7.6 Public Interest Report

In the event of the external auditor issuing a Public Interest report the Foundation Trust shall: Send the public interest report to the Council of Governors the Board of Directors and NHS Improvement:

- At once if it is an immediate report; or
- Not later than 14 days after conclusion of the audit, forward a report to NHS Improvement within 30 days (or such shorter period as NHS Improvement may specify) of the report being issued. The report shall include details of the Foundation Trust's response to the issues raised within the Public Interest report.

6.8 Fraud and Corruption

6.8.1 The Foundation Trust shall take all necessary steps to counter fraud relating to its functions and in accordance with the "Foundation Trust Contract", and having regard to any reasonable guidance or advice issued by NHS Protect. The Foundation Trust shall act in accordance with:

- a. the NHS Fraud and Corruption Manual;
- b. the policy statement "Applying appropriate sanctions consistently" published by NHS Protect;

The Chief Executive and Director of Finance shall monitor and ensure compliance with Fraud and Corruption elements of the Foundation Trust Contract.

6.8.2 The Foundation Trust shall nominate a suitable person to carry out the duties of the Local Anti Fraud Specialist as specified by the Department of Health Fraud and Corruption Manual Guidance.

6.8.3 The Local Anti Fraud Specialist shall report to the Foundation Trust Director of Finance and shall work with the staff in the NHS Protect in accordance with the Department of Health Fraud and Corruption Manual.

6.8.4 The Local Anti Fraud Specialist will provide a written plan and report, at least annually on anti fraud work within the Foundation Trust.

6.9 Security Management

6.9.1 The Foundation Trust shall promote and protect the security of people engaged in activities for the purposes of the health service functions of that body, its property and its information in accordance with the requirements of the 'Foundation Trust Contract', having regard to any other reasonable guidance or advice issued by the NHS Protect.

6.9.2 The Foundation Trust shall nominate and appoint a local security management specialist as per the Foundation Trust Contract.

6.9.3 The Chief Executive has overall responsibility for controlling and coordinating security. However, key tasks are delegated to the Director of Operations and the appointed Local Security Management Specialist (LSMS).

6.10. Allocations, business planning, budgets, budgetary control and monitoring

6.10.1 Preparation and approval of business plans and budgets

6.10.1.1 The Chief Executive will compile and submit to the Board of Directors an Annual Plan that takes into account financial targets and forecast limits of available resources. The Annual Plan will contain:

a) a statement of the significant assumptions on which the plan is based;

b) details of major changes in workload, delivery of services or resources required to achieve the plan.

6.10.1.2 Prior to the start of the financial year the Director of Finance will, on behalf of the Chief Executive, prepare and submit budgets relating to income and expenditure for approval by the Board of Directors. Such budgets will:

a) be in accordance with the aims and objectives set out in the Foundation Trust's Annual Plan and the commissioners' local delivery plans;

b) accord with workload and manpower plans;

c) be produced following discussion with appropriate budget holders;

d) be prepared within the limits of available funds;

e) identify potential risks;

f) be based on reasonable and realistic assumptions; and

g) enable the Foundation Trust to comply with its Licence and the requirements of the Prudential Borrowing Code set by the NHS Improvement.

6.10.1.3 The Director of Finance shall monitor the financial performance against budgets, periodically review it and report to the Board of Directors. Any significant variances should be reported by the Director of Finance to the Board of Directors as soon as they come to light and the Board of Directors shall be advised of action to be taken in respect of such variances.

6.10.1.4 All budget holders must provide information as required by the Director of Finance to enable budgets to be compiled.

6.10.1.5 All budget holders will sign up to their allocated budgets at the commencement of each financial year.

6.10.1.6 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to all budget holders to help them manage successfully.

6.10.2 Budgetary delegation

6.10.2.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities, including pooled budget arrangements under Section 31 of the Health Act 1999. This delegation must be in writing and be accompanied by a clear definition of:

- a. the amount of the budget;
- b. the purpose(s) of each budget heading;
- c. individual and group responsibilities;
- d. authority to exercise virement (which cannot be from a non-pay heading into a pay heading) (see also section 23 below);
- e. achievement of planned levels of service; and
- f. the provision of regular reports.

6.10.2.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virements limits set by the Board of Directors.

6.10.2.3 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.

6.10.2.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Director of Finance.

6.10.3 Budgetary control and reporting

6.10.3.1 The Director of Finance will devise and maintain systems of budgetary control. These will include:

- a. regular financial reports to the Board of Directors in a form approved by the Board of Directors containing:
 - i. income and expenditure to date showing trends and forecast year-end position;
 - ii. statement of financial position, including movements in working capital,
 - iii. statement of cash flows and details of performance within Prudential Borrowing Code;
 - iv. capital project spend and projected out-turn against plan,
 - v. explanations of any material variances from plan/budget;
 - vi. details of any corrective action where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation;

- b. the issue of timely, accurate and comprehensive advice and financial reports to each budget holder, covering the areas for which they are responsible;
- c. investigation and reporting of variances from financial, and workload budgets;
- d. the monitoring of management action to correct variances;
- e. arrangements for the authorisation of budget transfers;
- f. advising the Chief Executive and Board of Directors of the consequences of changes in policy, pay awards and other events and trends affecting budgets and shall advise on the economic and financial impact of future plans and projects; and
- g. review of the bases and assumptions used to prepare the budgets.

In the performance of these duties the Director of Finance will have access to all budget holders on budgetary matters and shall be provided with such financial and statistical information as is necessary.

6.10.3.2. Each budget holder is responsible for ensuring that:

- a. any planned or known overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board of Directors;
- b. officers shall not exceed the budget limit set;
- c. the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement; and,
- d. no permanent employees are appointed without the approval of the Chief Executive or Director of Finance other than those provided for in the budgeted establishment as approved by the Board of Directors.

6.10.3.3 The Chief Executive is responsible for identifying and implementing cost improvements and income generation initiatives in accordance with the requirements of the Annual Plan and a balanced budget.

6.10.4 Capital expenditure

6.10.4.1 The general rules applying to delegation and reporting shall also apply to capital expenditure. (The particular applications relating to capital are contained in Section 6.42) A Project Sponsor will be identified who will assume responsibility for the budget relating to the scheme.

6.10.5 Monitoring Returns

6.10.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to NHS Improvement within the specified time-scales.

6.11 Annual Accounts and Reports Accounts

6.11.1.2 The Foundation Trust shall keep accounts in such form as NHS Improvement may with the approval of HM Treasury direct. The accounts are to be audited by the Foundation Trust's external auditor. The following documents will be made available to the Comptroller and Auditor General for examination at their request:

- the accounts,
- any records relating to them; and
- any report of the external auditor on them.

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

6.11.1.4 In preparing its annual accounts, the Accounting Officer shall cause the Foundation Trust to comply with any directions given by NHS Improvement with the approval of the Treasury as to:

- the methods and principles according to which the accounts are to be prepared;
- the information to be given in the accounts; and shall be responsible for the functions of the Foundation Trust as set out in Schedule 10 to the 2006 Act.

6.11.1.5 The annual accounts, any report of the external auditor on them, and the annual report are to be presented to the Council of Governors at a General Meeting.

The accounting officer shall cause the Foundation Trust to: lay a copy of the annual accounts, and any report of the external auditor on them, before Parliament; and once it has done so, send copies of those documents to NHS Improvement.

6.11.1.6 Responsibility for complying with the requirements relating to the form, preparation and presentation of the accounts shall be delegated to the Accounting Officer.

6.11.2 Annual Reports

6.11.2.1 The Foundation Trust is to prepare annual reports and send them to NHS Improvement. The annual reports are to give:

- information on any steps taken by the Foundation Trust 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; and any other information NHS Improvement requires.
- The Foundation Trust is to comply with any decision NHS Improvement makes as to:
 - the form of the reports
 - when the reports are to be sent to them
 - the periods to which the reports are to relate.

6.11.2.2 The external auditors of the Foundation Trust have a responsibility to read the information contained within the Annual Report and consider the implications for the audit opinion and/or certificate if there are apparent misstatements or material inconsistencies with the financial statements.

6.12 Annual Plan

6.12.1 The Foundation Trust is to give information as to its forward planning in respect of each financial year to NHS Improvement. 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 the Council of Governors. The Annual Plan must be approved by the Board of Directors.

6.13 Other Reports

- 6.13.1 The Foundation Trust is required to publish a separate Quality Account each year, as required by the NHS Act 2009 and in the terms set out in the NHS (Quality Accounts) Regulations 2010.

The Foundation Trust is also required to provide the following three types of in-year reports:

- regular reports, (e.g. quarterly financial monitoring), subject to review;
- exception reports, which may relate to any in-year issue affecting compliance with the Authorisation, such as performance against core national healthcare targets and standards; and
- ad hoc reports, following up specific issues identified either in the Annual Plan or in-year.

6.14 Bank Accounts

6.14.1 General

- 6.14.1.1 The Director of Finance is responsible for managing the Foundation Trust banking arrangements and for advising the Foundation Trust on the provision of banking services and operation of accounts.

- 6.14.1.2 The Board of Directors shall approve the banking arrangements.

6.15 Bank accounts

- 6.15.1 The Director of Finance is responsible for:

- a. bank accounts (including those provided by the Government Banking Service (GBS)) and other forms of working capital financing;
- b. establishing separate bank accounts for the Foundation Trust's non-exchequer funds;
- c. ensuring payments made from bank accounts do not exceed the amount credited to the account except where arrangements have been made;
- d. reporting to the Board of Directors all arrangements made with the Foundation Trust's bankers for accounts to be overdrawn (together with the remedial action taken).

All accounts should be held in the name of the Foundation Trust. No officer other than the Director of Finance shall open any account in the name of the Foundation Trust or for the purpose of furthering Foundation Trust activities.

6.16 Banking procedures

- 6.16.1 The Director of Finance will prepare detailed instructions on the operation of bank accounts, which must include:

- a. the conditions under which each bank account is to be operated;
- b. the limit to be applied to any overdraft; and
- c. those authorised to sign cheques or other orders drawn on the Foundation Trust's accounts.

- 6.16.2 The Director of Finance must advise the Foundation Trust's bankers in writing of the conditions under which each account will be operated.

- 6.16.3 Manually produced cheques shall be signed by authorised officer(s) in accordance with the bank mandate. All cheques shall be treated as controlled stationery, in the charge of a duly designated officer controlling their issue.

6.17 Tendering and Review

- 6.17.1 The Director of Finance will review the commercial banking arrangements of the Foundation Trust at regular intervals to ensure they reflect best practice and represent best value for money

by periodically seeking competitive tenders.

6.17.2 Competitive tenders should be sought at least every 5 years. The results of the tendering exercise should be reported to the Board of Directors. This review is not applicable to GBS accounts.

6.18. Income, fees and charges and security of cash, cheques and other negotiable instruments

6.18.1 Income systems

6.18.1.1 The Director of Finance is responsible for designing, maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due.

6.18.1.2 All such systems shall incorporate, where practicable, in full the principles of internal check and separation of duties.

6.18.1.3 The Director of Finance is also responsible for the prompt banking of all monies received.

6.19 Fees and charges other than Foundation Trust Contracts

6.19.1 The Director of Finance is responsible for approving and regularly reviewing the level of all fees and charges other than those determined by the Department of Health or by Statute. Independent professional advice on matters of valuation shall be taken as necessary. Where sponsorship income (including items in kind such as subsidised goods or loans of equipment) is considered the guidance in the Department of Health's Commercial Sponsorship – Ethical Standards in the NHS shall be followed.

6.19.2 All employees must inform the Director of Finance promptly of money due arising from transactions which they initiate/deal with, including all contracts, leases, tenancy agreements, private patient undertakings and other transactions.

6.20 Non-NHS Income

6.20.1 In accordance with Part 4 of the Health and Social Care Act 2012 the Foundation Trust shall ensure that the income it receives from providing goods and services for the NHS is greater than its income from other sources.

6.20.2 Where the Foundation Trust proposed to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the health service, it will seek approval from the Council of Governors.

6.21 Debt recovery

6.21.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts, including a formal follow up procedure for all debtor accounts.

6.21.2 Income not received should be dealt with in accordance with losses procedures (see Section 6.50 below).

6.21.3 Overpayments should be detected (or preferably prevented) and recovery initiated.

6.22 Security of cash, cheques and other negotiable instruments

6.22.1 The Director of Finance is responsible for:

- a. approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable; (No form of receipt which has not been specifically authorised by the Director of Finance should be issued).

- b. ordering and securely controlling any such stationery;
 - c. the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines; and
 - d. prescribing systems and procedures for handling cash and negotiable securities on behalf of the Foundation Trust.
- 6.22.2 Official money shall not under any circumstances be used for the encashment of private cheques, nor IOUs.
- 6.22.3 Staff shall be informed in writing on appointment of their responsibilities and duties for the collection, handling or disbursement of cash, cheques etc.
- 6.22.4 All cheques, postal orders, cash etc., shall be banked promptly and intact under arrangements approved by the Director of Finance.
- 6.22.5 The Foundation Trust will not accept a cash payment for a single transaction which is in excess of the current limit (15,000 euros as at October 2010 or sterling equivalent). This policy exempts the Foundation Trust from the requirement to register under the 2007 Money Laundering Regulations that came into effect on 15 December 2007.
- 6.22.6 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Foundation Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Foundation Trust from responsibility for any loss.
- 6.22.7 Any loss or shortfall of cash, cheques or other negotiable instruments, however occasioned, shall be monitored and recorded within the Finance Department. Any significant trends should be reported to the Director of Finance and Internal Audit via the incident reporting system. Where there is prima facie evidence of fraud or corruption this should follow the form of the Foundation Trust's Fraud, Theft and Corruption Policy and the guidance provided by the Anti Fraud and Security Management Service. Where there is no evidence of fraud or corruption the loss should be dealt with in line with the Foundation Trust's Losses and Compensations Procedures (see Section 15 below).

6.23. Foundation Trust Contracts

6.23.1 Provision of Services

The Board of Directors of the Foundation Trust shall regularly review and shall at all times maintain and ensure the capacity and capability of the Foundation Trust to provide the mandatory goods and services referred to in the Terms of Authorisation/ Licence and related Schedules.

6.24 Foundation Trust Contracts

6.24.1 The Chief Executive, as the Accounting Officer, is responsible for ensuring the Foundation Trust enters into suitable Foundation Trust Contracts (FTCs) with CCGs and other commissioners for the provision of NHS services. The Foundation Trust will follow the priorities contained within the schedules of the contract, and wherever possible, be based upon integrated care pathways to reflect expected patient experience. In discharging this responsibility, the Chief Executive should take into account:

- the standards of service quality expected;

- the relevant national service framework (if any);
- the provision of reliable information on cost and volume of services;
- the Performance Assessment Framework contained within the FTC
- that the FTC builds where appropriate on existing partnership arrangements.

6.24.2 A good FTC will result from a dialogue of clinicians, users, carers, public health professionals and managers. It will reflect knowledge of local needs and inequalities. This will require the Chief Executive to ensure that the Foundation Trust works with all partner agencies involved in both the delivery and the commissioning of the service required.

6.24.3 The Chief Executive, as the Accounting Officer, will need to ensure that regular reports are provided to the Board of Directors detailing actual and forecast income from FTCs. This will include appropriate payment by results performance information.

6.25 Non Commissioner Contracts

6.25.1 Where the Foundation Trust enters into a relationship for the supply or receipt of other services – clinical or non-clinical e.g. with a non-NHS body or Service Level Agreement with another NHS Trust, the responsible officer should ensure that an appropriate non-commissioner contract is present and signed by both parties. This should incorporate:

- a description of the service and indicative activity levels the term of the agreement
- the value of the agreement the lead officer
- performance and dispute resolution procedures
- risk management and clinical governance agreements.

Non-commissioner contracts should be reviewed and agreed on an annual basis or as determined by the term of the agreement so as to ensure value for money and to minimise the potential loss of income.

6.26. Terms of Service, allowances and Payment of Members of the Board of Directors and Employees

6.26.1 Nominations Committee (Executive Directors)

6.26.1.1 In accordance with Standing Orders the Board of Directors has established a Nominations Committee which is responsible for the appointment of Executive Directors. It has clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition, and the arrangements for reporting.

6.26.1.2 The terms of reference of the Nominations Committee (Executive Directors) can be found in this Corporate Governance Manual, section 4biii.

6.27 Remuneration and Terms of Service Committee (Executive Directors)

6.27.1 In accordance with Standing Orders the Board of Directors have established a Remuneration and Terms of Service Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition and the arrangements for reporting.

6.27.2 The terms of reference of the Remuneration and Terms of Service Committee can be found in this corporate governance manual, section 4bii. .

6.28 Nominations Committee (Non-Executive Directors)

6.28.1 In accordance with Standing Orders the Council of Governors has established a Nominations

Committee which is responsible for the appointment of Non-Executive Directors. It will make recommendations to a general meeting of the Council Governors on the appointment of Non-Executive Directors. It has clearly defined terms of reference, specifying its area of responsibility, its composition, and the arrangements for reporting.

6.28.2 The terms of reference of the Nominations Committee (Non-Executive Directors) can be found in this corporate governance manual, section 4biii.

6.29 Remuneration and Terms of Office Committee (Non-Executive Directors)

6.29.1 The Council of Governors has established a Remuneration and Terms of Office Committee, with clearly defined terms of reference, specifying which posts fall within its area of responsibility, its composition and the arrangements for reporting.

6.29.2 The Committee shall report in writing to the Council of Governors the basis for its recommendations. The Council of Governors shall use the report as the basis for their decisions, but remain accountable for taking decisions on the remuneration and terms of office of Non-Executive Directors. Minutes of the Council of Governors' meetings should record such decisions.

6.30 Funded establishment

6.30.1 The manpower plans incorporated within the annual budget will form the funded establishment. The staffing establishment of the Foundation Trust will be identified and monitored by the Director of Operations under delegation from the Chief Executive.

6.30.2 The funded establishment of any department may not be varied without the approval of the Chief Executive or an individual nominated within the relevant section of the Scheme of Reservation and Delegation. The Business Accountant is responsible for verifying that funding is available.

6.31 Staff appointments

6.31.1 No Executive Director or employee may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:

- a. unless authorised to do so by the Chief Executive; and
- b. within the limit of their approved budget and funded establishment as defined in the Scheme of Reservation and Delegation.

6.31.2 The Board of Directors will approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc., for employees.

6.31.3 There may be circumstances where the Trust deems it necessary to engage an individual 'off-payroll' (i.e.: a specialist carrying out a short term role). Individuals may invoice the Trust in their name, in the name of their partnership or a limited company/personal service company.

Where an engagee provides services to the Trust for a period greater than 6 months and for a daily rate equal to or greater than £220 per day, the Trust must determine the employment status of the engagee using HMRC's Employment Status Indicator Tool. If the engagee is deemed to be 'employed' from a HMRC perspective, the engagee will be paid via payroll. If the engagee is deemed to be 'self-employed' from a HMRC perspective, the engagee can be paid via accounts payable.

It is for the Trust to determine the employment status of the engagee.

The Trust must be satisfied and seek assurances where necessary, that all off-payroll arrangements comply fully with legislation designed to ensure that all relevant Tax and National Insurance Contributions due to HMRC are being paid in these circumstances.

In order to satisfy this requirement, all off payroll arrangement contracts must include contractual provisions allowing the Trust to seek assurances regarding the income tax and NICS obligations of those engaged in off payroll arrangements.

All or any potential off payroll arrangements must be notified to the Senior Financial Controller before the contract commences. All off payroll arrangements must be reviewed annually and any potential revisions/amendments/changes/additions/deletions reported to the Senior Financial Controller immediately.

The Trust will reserve the right to terminate any contract where this assurance has not been received or those engaged by the Trust in these arrangements fail to comply with these conditions.

6.32 Processing of the payroll

6.32.1 The Director of Finance is responsible for:

- a. specifying timetables for submission of properly authorised time records and other notifications;
- b. the final determination of pay and allowances; including verification that the rate of pay and relevant conditions of service is in accordance with current agreements.
- c. making payment on agreed dates; and
- d. agreeing method of payment.

6.32.2 The Director of Finance will issue instructions regarding:

- a. verification and documentation of data;
- b. the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
- c. maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
- d. security and confidentiality of payroll information;
- e. checks to be applied to completed payroll before and after payment;
- f. authority to release payroll data under the provisions of the Data Protection Act;
- g. methods of payment available to various categories of employee;
- h. procedures for payment by cheque, bank credit, or cash to employees;
- i. procedures for the recall of cheques and bank credits;
- j. pay advances and their recovery;
- k. maintenance of regular and independent reconciliation of pay control accounts;
- l. separation of duties of preparing records and handling cash; and
- m. a system to ensure the recovery from leavers of sums of money and property due by them to the Foundation Trust.

6.32.3 Appropriately nominated managers have delegated responsibility for:

- a. processing a signed copy of the contract/appointment form and such other documentation as may be required immediately upon an employee commencing duty;

- b. submitting time records and other notifications in accordance with agreed timetables;
- c. completing time records and other notifications in accordance with the Director of People and Organisational Development instructions and in the form prescribed by the Director of People and Organisational Development; and
- d. submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's resignation, termination or retirement. Where an employee fails to report for duty in circumstances that suggest they have left without notice, the Director of Operations must be informed immediately. In circumstances where fraud might be expected this must be reported to the Director of Finance.

6.32.4 Regardless of the arrangements for providing the payroll service, the Director of Operations in conjunction with the Director of Finance shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.

6.33 Contracts of employment

- 6.33.1 The Board of Directors shall delegate responsibility to a manager for:
- a. ensuring that all employees are issued with a Contract of Employment in a form approved by the Board of Directors and which complies with employment and Health & Safety legislation; and
 - b. dealing with variations to, or termination of, contracts of employment.

6.34 Non Pay Expenditure

6.34.1 Delegation of authority

6.34.1.1 The Board of Directors will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget holders.

6.34.1.2 The Chief Executive will set out:

- a. the list of managers who are authorised to place requisitions for the supply of goods and services (see Table B Delegated Financial Limits Section 2) which should be updated and reviewed on an on-going basis and annually by the Finance Department; and
- b. where the authorisation system is computerised the list will be maintained within the computerised system and the 'signature' will be in the form of electronic authorisation in accordance with the access and authority controls maintained within the computerised system; and
- c. the maximum level of each requisition and the system for authorisation above that level.

6.34.1.3 The Chief Executive shall set out procedures on the seeking of professional advice regarding the supply of goods and services.

6.35 Choice, requisitioning, ordering, receipt and payment for goods and services

6.35.1 The requisitioner in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Foundation Trust with particular reference to the requirements for quotations and tenders detailed in Table B (Delegated Limits) of the Scheme of Reservation and Delegation. In so doing, the advice of the Supplies Department advisor shall be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance (and/or the Chief Executive) shall be consulted.

6.35.2 The Director of Finance shall be responsible for the prompt payment of properly authorised accounts and claims in accordance with the Better Payment Practice Code (BPPC). Payment

of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance.

6.35.3 The Director of Finance will:

- a. advise the Board of Directors regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in Scheme of Reservation and Delegation (see Table B Delegated Financial Limits Section 1) and regularly reviewed;
- b. prepare procedural instructions where not already provided in the Scheme of Delegation or procedure notes for budget holders on the obtaining of goods, works and services incorporating the thresholds;
- c. be responsible for the prompt payment of all properly authorised accounts and claims;
- d. be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
 - i. A list of directors/employees (including specimens of their signatures) authorised to approve or incur expenditure. Where the authorisation system is computerised the list will be maintained within the computerised system and the 'signature' will be in the form of electronic authorisation in accordance with the access and authority controls maintained within the computerised system.
 - ii. Certification that:
 - goods have been duly received, examined and are in accordance with specification and the prices are correct;
 - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
 - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
 - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
 - the account is arithmetically correct;
 - the account is in order for payment.
 - iii. A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment.
 - iv. Instructions to employees regarding the handling and payment of accounts within the Finance Department.
- e. Be responsible for ensuring that payment for goods and services is only made once the goods and services are received, (except as below).

6.35.4 Prepayments outside of normal commercial arrangements, for example fully comprehensive

maintenance contracts, rental, insurance are only permitted where exceptional circumstances apply. In such instances:

- a. Prepayments are only permitted where the financial advantages outweigh the disadvantages (i.e. cash flows must be discounted to NPV using the National Loans Fund (NLF) rate).
- b. The appropriate officer in conjunction with the Supplies Department must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Foundation Trust if the supplier is at some time during the course of the prepayment agreement unable to meet their commitments;
- c. The Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above the stipulated financial threshold);
- d. The Budget Holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the appropriate Director or Chief Executive if problems are encountered.

6.35.5 Official Orders must:

- a. be consecutively numbered;
- b. be in a form approved by the Director of Finance;
- c. state the Foundation Trust terms and conditions of trade; and
- d. only be issued to, and used by, those duly authorised by the Chief Executive.

6.35.6 Managers must ensure that they comply fully with the guidance and limits specified by the Director of Finance and that:

- a. all contracts other than for a simple purchase permitted within the Scheme of Delegation or delegated budget, leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- b. contracts above specified thresholds are advertised and awarded in accordance with EU and GATT rules on public procurement;
- c. where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health;

Where an officer certifying accounts relies upon other officers to do preliminary checking, they shall wherever possible, ensure that those who check delivery or execution of work act independently of those who have placed orders and negotiated prices and terms;

- d. no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to directors or employees, other than:
 - i. isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
 - ii. conventional hospitality, such as lunches in the course of working visits;

- e. no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
- f. all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract and purchases from petty cash or on purchasing cards;
- g. verbal orders must only be issued very exceptionally - by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order, and clearly marked "Confirmation Order".
- h. orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
- i. goods are not taken on trial or loan in circumstances that could commit the Foundation Trust to a future un-competitive purchase;
- j. changes to the list of directors/employees authorised to certify invoices are notified to the Director of Finance;
- k. purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance;
- l. petty cash records are maintained in a form as determined by the Director of Finance; and
- m. orders are not required to be raised for utility bills, NHS Recharges; audit fees and ad hoc services such as private hospital fees. Payments must be authorised in accordance with the delegated limits set for non-pay.

6.35.7 The Chief Executive and Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within the NHS Foundation Trust Risk Assessment Framework. The technical audit of these contracts shall be the responsibility of the relevant Director.

6.35.8 Under no circumstances should goods be ordered through the Foundation Trust for personal or private use.

6.36 Joint finance arrangements with local authorities and voluntary bodies

6.36.1 Payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act 1977 shall comply with procedures laid down by the Director of Finance which shall be in accordance with this Act.

6.37 Public Dividend Capital

6.37.1 On authorisation as a Foundation Trust the Public Dividend Capital held immediately prior to authorisation continues to be held on the same conditions.

6.37.2 Additional Public Dividend Capital may be made available on such terms the Secretary of State (with the consent of the Treasury) decides.

6.37.3 Draw down of Public Dividend Capital should be authorised in accordance with the mandate held by the Department of Health Cash Funding Team, and is subject to approval by the Secretary of State.

6.37.4 The Foundation Trust shall be required to pay annually to the Department of Health a dividend on its Public Dividend Capital at a rate to be determined from time to time, by the Secretary of State.

6.38 Working Capital Loan Facility

6.38.1 The Foundation Trust may be required by NHS Improvement to have a working capital facility. This will be provided, following a tender process, by a commercial bank. Such a facility may be of variable term.

6.38.2 The Foundation Trust must only draw down against this facility in respect of true working capital needs, and in accordance with the terms and conditions of the facility.

6.9 Commercial Borrowing and Investment

6.9.1 The Foundation Trust may borrow money from any commercial source for the purposes of or in connection with its functions.

6.9.2 The Foundation Trust may invest money (other than money held by it as charitable trustee) for the purposes of or in connection with its functions. Such investment may include forming, or participating in forming, or otherwise acquiring membership of bodies corporate.

6.9.3 The Foundation Trust will not give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.

6.40 Investment of Temporary Cash Surpluses

6.40.1 Temporary cash surpluses must be held only in such public and private sector investments as authorised by the Board of Directors.

6.40.2 The Audit Committee is responsible for establishing and monitoring an appropriate investment strategy.

6.40.3 The Director of Finance is responsible for advising the Board of Directors on investments and shall report periodically to the Board of Directors concerning the performance of investments held.

6.40.4 The Director of Finance will prepare detailed procedural instructions on investment operations and on the records to be maintained. The Foundation Trust's Treasury Management Policy will include instructions on funding and investing, safe harbour investments, risk management, borrowing, controls, reporting and performance management.

6.41 Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets

6.41.1 Capital investment

The Chief Executive:

- a. shall ensure that there is an adequate appraisal and approval process in place for determining capital expenditure priorities and the effect of each proposal upon business plans;
- b. is responsible for the management of all stages of capital schemes and for ensuring that schemes are delivered on time and to cost; and
- c. shall ensure that capital investment is not undertaken without the availability of resources to finance all revenue consequences, including capital charges.

6.41.2 For capital expenditure proposals the Chief Executive shall ensure (in accordance with the limits outlined in the Scheme of Delegation):

- a. that a business case is produced setting out:
 - i. an option appraisal of potential benefits compared with known costs to determine the option with the highest ratio of benefits to costs; and
 - ii. appropriate project management and control arrangements; and
 - iii. the involvement of appropriate Foundation Trust personnel and external agencies; and
- b. that the Director of Finance has certified professionally to the costs and revenue consequences detailed in the business case.

6.41.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of CONCODE and the NHS Foundation Trust Financial Reporting Manual.

The Director of Finance shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with HM Revenue & Customs guidance.

The Director of Finance shall issue procedures for the regular reporting of capital expenditure and commitment against authorised expenditure.

6.41.4 The approval of a capital programme shall not constitute approval for expenditure on any scheme.

The Chief Executive shall issue to the manager responsible for any scheme:

- a. specific authority to commit expenditure;
- b. authority to proceed to tender;
- c. approval to accept a successful tender.

The Chief Executive will issue a scheme of delegation for capital investment management in accordance with CONCODE and the NHS Foundation Trust Financial Reporting Manual guidance and the Foundation Trust's Standing Orders.

6.41.5 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes.

6.42 Private finance

The Foundation Trust should consider testing for PFI when considering capital procurement. When the Board proposes, or is required, to use finance provided by the private sector the following should apply:

- a. The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- b. A business case must be referred to NHS Improvement for approval or treated as per current guidelines.

- c. The proposal must be specifically agreed by the Foundation Trust in the light of such professional advice as should reasonably be sought in particular with regard to vires.
- d. The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

6.43 Asset Register

6.43.1 The Chief Executive is responsible for the maintenance of a register of assets, taking account of the advice of the Director of Finance concerning the form of any register and the method of updating, and arranging for a physical check of assets against the Asset Register to be conducted once a year.

6.43.2 The Foundation Trust shall maintain an Asset Register recording fixed assets. As a minimum, the minimum data set to be held within these registers shall be as specified in the NHS Foundation Trust Financial Reporting Manual.

6.43.3 Only additions to the Asset Register can be approved by the Deputy Director of Finance/Senior Financial Controller.

Only expenditure incurred in accordance with IAS 16, IAS 17 and the Trust's Accounting Policy on Non-Current Assets and Finance Leases will be considered for capitalisation.

Capital expenditure will be identified and quantified in accordance with:

- a. Expenditure that is directly attributable to bringing the asset into the location and condition necessary for it to be operated as intended by management;
- b. Properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
- c. Stores, requisitions and wages records for materials and labour, subject to compliance with IAS 16; and lease agreements in respect of assets held under a finance lease in accordance with IAS 17.

All related revenue consequences must be identified, quantified and resourced recurrently in advance of incurring any capital expenditure.

All related revenue consequences will be borne and approved by the appropriate budget holder. The Finance Department must confirm that funding is available to resource the revenue consequences recurrently before the Trust incurs any capital expenditure.

6.43.4 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).

6.43.5 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on the Asset Register.

6.43.6 The value of each asset shall be adjusted to current values in accordance with methods specified in the NHS Foundation Trust Annual Reporting Manual issued by NHS Improvement.

6.43.7 The value of each asset shall be depreciated using methods and rates as specified in the NHS

Foundation Trust Annual Reporting Manual issued by NHS Improvement.

6.43.8 The Director of Finance shall calculate and pay capital charges as specified by the Department of Health.

6.44 Security of assets

6.44.1 The overall control of fixed assets is the responsibility of the Chief Executive advised by the Director of Finance.

Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. This procedure shall make provision for:

- a. recording managerial responsibility for each asset;
- b. identification of additions and disposals;
- c. identification of all repairs and maintenance expenses;
- d. physical security of assets;
- e. periodic verification of the existence of, condition of, and title to, assets recorded;
- f. identification and reporting of all costs associated with the retention of an asset; and
- g. reporting, recording and safekeeping of cash, cheques, and negotiable instruments.

6.44.2 All significant discrepancies revealed by verification of physical assets to the Asset Register shall be notified to the Director of Finance.

6.44.3 Whilst each employee has a responsibility for the security of property of the Foundation Trust, it is the responsibility of directors and senior employees in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board of Directors. Any breach of agreed security practices must be reported in accordance with instructions.

6.44.4 Any damage to the Foundation Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by directors and employees in accordance with the procedure for reporting losses.

6.44.5. Where practical, assets should be marked as Foundation Trust property.

6.45 Stock, Stores and Receipt of Goods

6.45.1 Stocks

6.45.1.1 Stocks are defined as those goods normally utilised in day to day activity, but which at a given point in time have not been used or consumed. There are three broad types of store:

- a. Controlled stores - specific areas designated for the holding and control of goods;
- b. Wards and departments - goods required for immediate usage to support operational services.

- c. Manufactured Items - where goods and consumables are being made or processes are being applied which add to the raw material cost of the goods.

6.45.1.2 Such stocks should be kept to a minimum and for;

- a. Controlled stores and other significant stores (as determined by the Director of Finance) should be subjected to an annual stocktake or perpetual inventory procedures; and
- b. valued at the lower of cost and net realisable value.

6.45.1.3 Subject to the responsibility of the Director of Finance for the systems of control, overall responsibility for the control of stores shall be delegated to an employee by the Chief Executive. The day-to-day responsibility may be delegated by them to departmental employees and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The overall control of any Pharmaceutical stocks is the responsibility of the Chief Pharmacist.

6.45.1.4 The responsibility for security arrangements and the custody of keys for all stores and locations shall be clearly defined in writing by the designated manager. Wherever practicable, stocks should be marked as NHS property.

6.45.1.5 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores, and losses. Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year.

6.45.1.6 Where a complete system or stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.

6.45.1.7 The designated manager shall be responsible for a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal and replacement of all unserviceable articles. The designed officer shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also Section 6.50, Disposals and Condemnations, Insurance, Losses and Special Payments below). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

6.46 Receipt of Goods

6.46.1 A delivery note shall be obtained from the supplier at the time of delivery and shall be signed by the person receiving the goods. All goods received shall be checked, by the appropriate department, as regards quantity and/or weight and inspected as to quality and specification. Instructions shall be issued to staff covering the procedures to be adopted in those cases where a delivery note is not available.

6.46.2 All goods received shall be entered onto an appropriate goods received/stock record (whether a computer or manual system) on the day of receipt. If goods received are unsatisfactory, the records shall be marked accordingly. Further, where the goods received are found to be unsatisfactory or short on delivery, they shall only be accepted on the authority of the designated officer and the supplier shall be notified immediately.

6.46.3 For goods supplied via the NHS Logistics central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note to satisfy themselves that the goods have been received.

The Finance Department will make payment on receipt of an invoice. This may also apply for high-level low volume items such as stationery.

6.47 Issue of Stocks

6.47.1 The issue of stocks shall be against an authorised requisition note and a receipt for the stock issued shall be returned to the designated officer. Where a 'topping up' system is used, a record shall be maintained as approved by the Director of Finance. Regular comparisons shall be made of the quantities issued to wards/departments etc. and explanations recorded of significant variations.

6.47.2 All transfers and returns shall be recorded on forms/systems provided for the purpose and approved by the Director of Finance.

6.48 Disposals and Condemnations, Insurance, Losses and Special Payments

6.48.1 Disposals and condemnations

6.48.1.1 The Director of Finance must prepare detailed procedures for the disposal of assets including impairments and condemnations, and ensure that these are notified to managers. Impairments will be dealt with in accordance with methods specified in the NHS Foundation Trust Annual Reporting Manual.

6.48.1.2 When it is decided to dispose of a Foundation Trust asset, the head of department or authorised deputy will determine and advise the Director of Finance of the estimated market value of the item, taking account of professional advice where appropriate.

6.48.1.3 All unserviceable articles shall be:

- a. condemned or otherwise disposed of by an employee authorised for that purpose by the Director of Finance;
- b. recorded by the condemning officer in a form approved by the Director of Finance which will indicate whether the articles are to be converted, destroyed or otherwise disposed of. All entries shall be confirmed by the countersignature of a second employee authorised for the purpose by the Director of Finance.

6.48.1.4 The condemning officer shall satisfy himself/herself as to whether or not there is evidence of negligence in use and shall report any such evidence to the Director of Finance who will take the appropriate action.

6.49 Losses and special payments

6.49.1 The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments. The Director of Finance must also prepare a fraud response plan that sets out the action to be taken both by persons detecting a suspected fraud and those persons responsible for investigating it.

6.49.2 Any employee or officer discovering or suspecting a loss of any kind must either immediately inform their head of department, who must immediately inform the Director of Finance who will liaise with the Chief Executive or inform an officer charged with responsibility for responding to concerns involving loss confidentially. This officer will then appropriately inform the Director of Finance who will liaise with the Chief Executive.

Where a criminal offence such as theft or arson is suspected, the Head of Service must immediately inform the police and obtain a crime number which should be forwarded to

Finance. In cases of fraud or corruption or of anomalies which may indicate fraud or corruption, the Director of Finance must inform their Local Anti Fraud Officer who will inform the relevant NHS Protect regional team before any action is taken and reach agreement as to how the case is to be handled.

6.49.3 For losses apparently caused by theft, arson, neglect of duty or gross carelessness, except if trivial the Director of Finance must immediately notify:

- a. the Board of Directors, and
- b. the External Auditor.
- c. NHS Protect (through the Local Anti Fraud Specialist)

6.49.4. The Operational Board shall approve the write-off of all losses and special payments in accordance with the Scheme of Delegation.

6.49.5 The Director of Finance shall be authorised to take any necessary steps to safeguard the Foundation Trust's interests in bankruptcies and company liquidations.

6.49.6 For any loss, the Director of Finance should consider whether any insurance claim can be made.

6.49.7 The Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded.

6.50 Compensation Claims

6.50.1 The Foundation Trust is committed to effective and timely investigation and response to any claim which includes allegations of clinical negligence, employee and other compensation claims. The Foundation Trust will follow the requirements and note the recommendations of the Department of Health, and the NHS Litigation Authority (NHSLA) in the management of claims. Every member of staff is expected to co-operate fully, as required, in assessment and management of each claim.

6.50.2 The Foundation Trust will seek to reduce the incidence and adverse impact of clinical negligence, employee and other litigation by:

- Adopting prudent risk management strategies including continuous review;
- Implementing in full the NHS Complaints Procedure, thus providing an alternative remedy for some potential litigants;
- Adopting a systematic approach to claims handling in line with the best current and cost effective practice;
- Following guidance issued by the NHSLA relating to clinical negligence;
- Achieving the Standards for Better Health;
- Implementing an effective system of Clinical Governance.

6.50.3 The Director of Nursing, Therapies and Patient Partnership is responsible for clinical negligence: for managing the claims process and informing the Board of Directors of any major developments on claims related issues.

6.51 Information Technology

6.51.1 Responsibilities and duties of the Director of Finance

6.51.1.1 The Director of Finance, who is responsible for the accuracy and security of the computerised financial data of the Foundation Trust, shall:

- a. devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Foundation Trust's data, programs and computer hardware for which they are responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998 (updated 2000) and the Computer Misuse Act 1990.
- b. ensure that adequate (reasonable) controls exist over data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
- c. ensure that adequate controls exist such that the computer operation is separated from development, maintenance and amendment;
- d. ensure that adequate controls exist to maintain the security, privacy, accuracy and completeness of financial data sent via transmission networks.
- e. ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as they may consider necessary are being carried out.

6.51.1.2 The Director of Finance shall satisfy themselves that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy will be obtained from them prior to implementation.

6.51.1.3 The Foundation Trust has published and maintains a Freedom of Information (FOI) Publication Scheme as approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our Trust that we make publicly available.

6.52 Responsibilities and duties of other Directors and Officers in relation to computer systems of a general application

6.52.1 In the case of computer systems which are proposed General Applications (i.e. normally those applications which the majority of NHS Organisations wish to sponsor jointly) all responsible directors and employees will send to the Director of Finance:

- a. details of the outline design of the system;
- b. in the case of packages acquired either from a commercial organisation, from the NHS, or from another public sector organisation, the operational requirement.

6.53 Contracts for Computer Services with other health bodies or outside agencies

6.53.1 The Director of Finance shall ensure that contracts for computer services for financial applications with another health organisation or any other agency shall clearly define the responsibility of all parties for the security, privacy, accuracy, completeness, and timeliness of data during processing, transmission and storage. The contract should also ensure rights of access for audit purposes.

6.53.2 Where another health organisation or any other agency provides a computer service for financial applications, the Director of Finance shall periodically seek assurances that adequate controls are in operation.

6.54 Requirement for Computer Systems which have an impact on corporate financial systems

6.54.1 Where computer systems have an impact on corporate financial systems the Director of Finance shall satisfy themselves that:

- a. systems acquisition, development and maintenance are in line with corporate policies such as an Information Technology Strategy;
- b. data produced for use with financial systems is adequate, accurate, complete and timely, and that a management (audit) trail exists;
- c. Director of Finance staff have access to such data; and
- d. such computer audit reviews as are considered necessary are being carried out.

6.55 Risk Assessment

6.55.1 The Director of Finance shall ensure that risks to the Trust arising from the use of IT are effectively identified and considered and appropriate action taken to mitigate or control risk. This shall include the preparation and testing of appropriate disaster recovery plans.

6.55.2 The Foundation Trust shall disclose to NHS Improvement and directly to any third parties, as may be specified by the Secretary of State, information, if any, as specified in the Terms of Authorisation, Schedule 6. Other information, as requested, shall be provided to NHS Improvement.

6.55.3 The Foundation Trust shall participate in the national programme for information technology, in accordance with any guidance issued by NHS Improvement.

6.56 Patients' Property

6.56.1 The Foundation Trust has a responsibility to provide safe custody for money and other personal property (hereafter referred to as "property") handed in by patients, in the possession of unconscious or confused patients, or found in the possession of patients dying in hospital or dead on arrival.

6.56.2 The Chief Executive is responsible for ensuring that patients or their guardians, as appropriate, are informed before or at admission by:

- notices and information booklets,
- hospital admission documentation and property records,
- the oral advice of administrative and nursing staff responsible for admissions,

that the Foundation Trust will not accept responsibility or liability for patients' property brought into its premises, unless it is handed in for safe custody and a copy of an official patient's property record is obtained as a receipt.

6.56.3 The Director of Finance must provide detailed written instructions on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of patients. The said instructions shall cover the necessary arrangements for withdrawal of cash or disbursement of money held in accounts of patients who are incapable of handling their own financial affairs.

Due care should be exercised in the management of a patient's money in order to maximise the

benefits to the patient.

6.56.4A patient's property record, in a form determined by the Director of Finance shall be completed in respect of the following:

- a. property handed in for safe custody by any patient (or guardian as appropriate); and
- b. property taken into safe custody having been found in the possessions of:
 - mentally disordered patients,
 - confused and/or disorientated patients
 - unconscious patients,
 - patients dying in hospital,
 - patients found dead on arrival at hospital (property removed by police).
- c. A record shall be completed in respect of all persons in category b, including a nil return if no property is taken into safe custody.

6.56.5 The record shall be completed by a member of the hospital staff in the presence of a second member of staff and the patient (or representative) where practicable. It shall then be signed by both members of staff and by the patient, except where the latter is restricted by physical or mental incapacity. Any alterations shall be validated by signature as required in the original entry on the record.

6.56.6 Patients' monies will be held in bank accounts separate from those containing Foundation Trust monies. These shall be opened and operated under arrangements agreed by the Director of Finance.

6.56.7 Patients' income, including pensions and allowances, shall be dealt with in accordance with current Department of Works and Pensions instructions. For long stay patients, the Chief Executive shall ensure that positive action is taken to use their funds effectively and so reduce balances accruing.

6.56.8 Refunds of cash handed in for safe custody will be dealt with in accordance with current Department of Works and Pensions instructions. Property other than cash, which has been handed in for safe custody, shall be returned to the patient as required, by the officer who has been responsible for its security. The return shall be receipted by the patient or guardian as appropriate and witnessed.

6.56.9 The disposal of property of deceased patients shall be effected by the officer who has been responsible for its security, such disposal shall be in accordance with written instructions issued by the Director of Finance, in particular, where cash or valuables have been deposited for safe custody, they shall only be released after written authority has been given by the Director of Finance. Such authority shall include details of the lawful kin or other person entitled to the cash and valuables in question.

6.56.10 In all cases where property of a deceased patient is of a total value in excess of £5,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates, Small Payments, Act 1965), the production of Probate or Letters of Administration shall be required before any of the property is released. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.

6.56.11 Property handed over for safe custody shall be placed into the care of the appropriate administrative staff. Where there are no administrative staff present, in which case the property

shall be placed in the secure care of the most senior member of nursing staff on duty.

6.56.12 In respect of deceased patients, if there is no will and no lawful next of kin the property vests in the Crown and particulars shall, therefore, be notified to the Treasury Solicitor.

6.56.13 Any funeral expenses necessarily borne by the Foundation Trust are a first charge on a deceased person's estate. Where arrangements for burial or cremation are not made privately, any element of the estate held by the Foundation Trust may be appropriated towards funeral expenses, upon the authorisation of the Director of Finance.

6.56.14 Staff should be informed, on appointment, by the appropriate departmental or senior manager of their responsibilities and duties for the administration of the property of patients.

6.56.15 Where patients' property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

6.57 Occupation Agreements

6.57.1 Licences of Occupation

6.57.1.1 Occupation agreements or licences of occupation are documents which set out the basis of occupation where other organisations occupy part of Trust buildings, often on a sessional basis. The agreements clarify responsibilities in terms of repair and cost of service charge, times of use, access arrangements etc.

6.57.1.2 The Deputy Director of Finance shall approve all Licences of Occupation.

6.57 Funds held on Trust (Charitable Funds)

6.57.1 General

6.57.1.1 The Foundation Trust has a responsibility as a corporate trustee for the management of funds it holds on trust, i.e. charitable funds. The management processes may overlap with those of the organisation of the Foundation Trust, the trustee responsibilities must be discharged separately and full recognition given to its dual accountabilities to the Charity Commission.

6.57.1.2 The reserved powers of the Board of Directors and the Scheme of Delegation make clear where decisions for which discretion must be exercised are to be taken and by whom.

6.57.1.3 As management processes overlap most of the sections of these Standing Financial Instructions will also apply to the management of funds held on trust.

6.57.1.4 The over-riding principle is that the integrity of each trust must be maintained and statutory and trust obligations met. Materiality must be assessed separately from exchequer activities and funds.

6.57.1.5 Charitable Funds are those gifts, donations and endowments made under the relevant charities legislation and held on trust for purposes relating to the Trust and the objectives of which are for the benefit of the NHS in England. They are administered by the Board of Directors acting as the Charitable Funds Trustees.

6.57.1.6 The Director of Finance shall maintain such accounts and records as may be necessary to record and protect all transactions and funds of the Foundation Trust as trustees of non-exchequer funds, including an Investment Register.

6.58 Existing Charitable Funds

- 6.58.1 The Director of Finance shall arrange for the administration of all existing funds. A Deed of Establishment must exist for every fund and detailed codes of procedure shall be produced covering every aspect of the financial management of charitable funds, for the guidance of fund managers. The Deed of Establishment shall identify the restricted nature of certain funds, and it is the responsibility of fund managers, within their delegated authority, and the Charitable Funds Trustees Committee, to ensure that funds are utilised in accordance with the terms of the Deed.
- 6.58.2 The Director of Finance shall periodically review the funds in existence and shall make recommendations to the Charitable Funds Trustees Committee regarding the potential for rationalisation of such funds within statutory guidelines.
- 6.58.3 The Director of Finance shall ensure that all funds are currently registered with the Charities Commission in accordance with the Charities Act 1993 or subsequent legislation.

6.59 New Charitable Funds

- 6.59.1 The Director of Finance shall, recommend the creation of a new fund where funds and/or other assets, received for charitable purposes, cannot adequately be managed as part of an existing fund. All new funds must be covered by a Deed of Establishment and must be formally approved by the Charitable Funds Trustees Committee.
- 6.59.2 The Deed of Establishment for any new fund shall clearly identify, inter alia, the objects of the new fund, the nominated fund manager, the estimated annual income and, where applicable, the Charitable Funds Trustees Committee's power to assign the residue of the fund to another fund contingent upon certain conditions e.g. discharge of original objects.

6.60 Sources of New Funds

- 6.60.1 All gifts accepted shall be received and held in the name of the Charity and administered in accordance with the Charity's policy, subject to the terms of specific funds. As the Charity can accept gifts only for all or any purposes relating to the NHS, officers shall, in cases of doubt, consult the Director of Finance before accepting any gift. Advice to the Charity Trustees on the financial implications of fund raising activities by outside bodies or organisations shall be given by the Director of Finance.
- 6.60.2 All gifts, donations and proceeds of fund-raising activities, which are intended for the Charity's use, must be handed immediately to the Director of Finance via the Cash Office to be banked directly to the Charitable Funds Bank Account.
- 6.60.3 In respect of Donations, the Director of Finance shall
- a. provide guidelines to officers of the Foundation Trust as to how to proceed when offered funds. These will include:-
 - i. the identification of the donor's intentions;
 - ii. where possible, the avoidance of creating excessive numbers of funds;
 - iii. the avoidance of impossible, undesirable or administratively difficult objects;
 - iv. sources of immediate further advice; and treatment of offers for personal gifts.
 - b. provide secure and appropriate receipting arrangements, which will indicate that donations have been accepted directly into the appropriate fund and that the donor's intentions have been noted and accepted.
- 6.60.4 In respect of legacies and bequests, the Director of Finance shall be kept informed of and

record all enquiries regarding legacies and bequests. Where required, the Director of Finance shall:

- a. provide advice covering any approach regarding:-
 - i) the wording of wills;
 - ii) the receipt of funds/other assets from executors;
- b. after the death of a testator all correspondence concerning a legacy shall be dealt with on behalf of the Charity by the Director of Finance who alone shall be empowered to give an executor a good discharge.
- c. where necessary, obtain grant of probate, or make application for grant of letters of administration;
- d. be empowered to negotiate arrangements regarding the administration of a Will with executors and to discharge them from their duty; and
- e. be directly responsible, in conjunction with the Charitable Funds Trustees Committee, for the appropriate treatment of all legacies and bequests.

6.60.5 In respect of fund-raising, the final approval for major appeals will be given by the Board of Trustees. Final approval for smaller appeals will be given by the Director of Finance who shall:-

- a. advise on the financial implications of any proposal for fund-raising activities;
- b. deal with all arrangements for fund-raising by and/or on behalf of the Charity and ensure compliance with all statutes and regulations;
- c. be empowered to liaise with other organisations/persons raising funds for the Charity and provide them with an adequate discharge;
- d. be responsible for alerting the Charitable Funds Trustees Committee to any irregularities regarding the use of the Charity's name or its registration numbers; and
- e. be responsible for the appropriate treatment of all funds received from this source.

6.60.6 In respect of Trading Income (see also NHS Charitable Funds Guidance Chapter 6), the Director of Finance shall:-

- a. be primarily responsible, along with designated fund managers, for any trading undertaken by the Charity; and
- b. be primarily responsible for the appropriate treatment of all funds received from this source.

6.60.7 In respect of Investment Income, the Director of Finance shall be responsible for the appropriate treatment of all dividends, interest and other receipts from this source (see below).

6.61 Investment Management

6.61.1 The Charitable Funds Trustees Committee shall be responsible for all aspects of the management of the investment of charitable funds as delegated under the terms of the approved investment policy. The issues on which the Director of Finance shall be required to provide advice to the Charitable Funds Trustees Committee shall include:-

- a. the formulation of investment policy which meets statutory requirements with regard to income generation and the enhancement of capital value;
- b. the appointment of advisers, brokers and, where appropriate, investment fund managers and:-
 - i. the Director of Finance shall recommend the terms of such appointments; and for which
 - ii. written agreements shall be signed by the Chief Executive;
- c. pooling of investment resources and the preparation of a submission to the Charity Commission for them to make a scheme;
- d. the participation by the Charity in common investment funds and the agreement of terms of entry and withdrawal from such funds;
- e. that the use of assets shall be appropriately authorised in writing and charges raised within policy guidelines;
- f. the review of the performance of brokers and fund managers;
- g. the reporting of investment performance.

6.61.2 The Director of Finance shall prepare detailed procedural instructions concerning the receiving, recording, investment and accounting for Charitable Funds.

6.62 Expenditure from Charitable Funds

6.62.1 Expenditure from Charitable Funds shall be managed on a day to day basis by the Senior Financial Accountant on behalf of the Charitable Funds Trustees Committee. In so doing the committee shall be aware of the following:-

- a. the objects of various funds and the designated objectives;
- b. the availability of liquid funds within each trust;
- c. the powers of delegation available to commit resources;
- d. the avoidance of the use of exchequer funds to discharge endowment fund liabilities (except where administratively unavoidable), and to ensure that any indebtedness to the Exchequer shall be discharged by trust funds at the earliest possible time;
- e. that funds are to be spent rather than preserved, subject to the wishes of the donor and the needs of the Foundation Trust; and
- f. the definitions of “charitable purposes” as agreed by the Department of Health with the Charity Commission.

6.62.2 Delegated authorities to incur expenditure which meets the purpose of the funds are set out in the Scheme of Delegation; exceptions are as follows:

- a. Any staff salaries/wages costs require Charitable Funds Trustees Committee approval;
- b. No funds are to be “overdrawn” except in the exceptional circumstance that Charitable Funds Trustees Committee approval is granted.

6.63 Banking Services

6.63.1 The Director of Finance shall advise the Charitable Funds Trustees Committee and, with its approval, shall ensure that appropriate banking services are available in respect of administering the Charitable Funds. These bank accounts should permit the separate identification of liquid funds to each trust where this is deemed necessary by the Charity Commission.

6.64 Asset Management

6.64.1 Assets in the ownership of or used by the Foundation Trust, shall be maintained along with the general estate and inventory of assets of the Foundation Trust. The Director of Finance shall ensure:-

- a. that appropriate records of all donated assets owned by the Foundation Trust are maintained, and that all assets, at agreed valuations are brought to account;
- b. that appropriate measures are taken to protect and/or to replace assets. These to include decisions regarding insurance, inventory control, and the reporting of losses;
- c. that donated assets received on trust shall be accounted for appropriately;
- d. that all assets acquired from Charitable Funds which are intended to be retained within the funds are appropriately accounted for.

6.65 Reporting

6.65.1 The Director of Finance shall ensure that regular reports are made to the Charitable Funds Trustees Committee with regard to, inter alia, the receipt of funds, investments and expenditure.

6.65.2 The Director of Finance shall prepare annual accounts in the required manner, which shall be submitted, to the Charitable Funds Trustees Committee within agreed timescales.

6.65.3 The Director of Finance shall prepare an annual trustees' report and the required returns to the Charity Commission for adoption by the Charitable Funds Trustees Committee.

6.66 Accounting and Audit

6.66.1 The Director of Finance shall maintain all financial records to enable the production of reports as above and to the satisfaction of internal and external audit.

6.66.2 Distribution of investment income to the charitable funds and the recovery of administration costs shall be performed on a basis determined by the Director of Finance.

6.66.3 The Director of Finance shall ensure that the records, accounts and returns receive adequate scrutiny by internal audit during the year. They will liaise with external audit and provide them with all necessary information.

6.66.4 The Charitable Funds Trustees Committee shall be advised by the Director of Finance on the outcome of the annual audit.

6.67 Taxation and Excise Duty

6.67.1 The Director of Finance shall ensure that the Charity's liability to taxation and excise duty is managed appropriately, taking full advantage of available concessions, through the maintenance of appropriate records, the preparation and submission of the required returns and the recovery of deductions at source.

6.68 Tendering and Quotation Procedure

6.68.1 Duty to comply with Standing Orders and Standing Financial Instructions

6.68.1.1 Standing Orders and Standing Financial Instructions (except where Suspension of Standing Orders is applied). In particular reference should be made to the Trust Delegated Authorities Table A Section 37 and Table B Section 1 Delegated Financial Limits of this Corporate Governance Manual.

6.68.2 In line with their responsibilities, the Trust Chief Executive and Director of Finance shall monitor and ensure compliance with Directions issued under the standard NHS contract on fraud, corruption and bribery.

6.69 EU Directives Governing Public Procurement

6.69.1 Directives by the Council of the European Union promulgated by the Department of Health (DH) prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in the Standing Orders and Standing Financial Instructions. Details of EU thresholds and the differing procedures to be adopted can be obtained from the Supplies Department (see paragraph 6.76.2 below). For a brief overview of OJEU European procurement legislation, see Attachment 1, p.107.

6.69.2 NHS ProCure21 was launched in April 2000 as a standardised approach to the procurement of healthcare facilities. It is based upon long term relationships with selected supply chains that have the ability to work with NHS bodies across the whole life cycle of a capital scheme. For further details see the ProCure21 website at www.nhs-procure21.gov.uk

6.70 Formal Competitive Tendering

6.70.1 The Foundation Trust shall ensure that competitive tenders are invited for:

- the supply of goods, materials and manufactured articles;
- for the rendering of services including all forms of management consultancy services (other than specialised services sought from or provided by the Department of Health);
- for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and for disposals.

Where the Foundation Trust elects to invite tenders for the supply of healthcare these Standing Financial Instructions shall apply as far as they are applicable to the tendering procedure.

6.70.2 Formal tendering procedures are not required where:

- a) the estimated expenditure or income does not, or is not reasonably expected to, exceed the limit set in the Scheme of Reservation and Delegation; or
 - b) the supply is proposed under special arrangements negotiated by the Department of Health in which event the said special arrangements must be complied with; or
 - c) regarding disposals as set out in Standing Financial Instruction 'Disposals and Condemnations'.
- d) the service falls under the "light-touch" regime as outlined in the OJEU regulations.

6.71 Fair and Adequate Competition

6.71.1 No company must be given any advantage over its competitors, which might hinder fair

competition between prospective contractors or suppliers. In this context see also the section on awarding contracts in the section below containing Standards of Business Conduct for NHS Staff.

6.71.2 The Foundation Trust shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, and in no case less than three firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

6.72 Items which subsequently breach thresholds after original approval

Items estimated to be below the limits set in this Standing Financial Instruction for which formal tendering procedures are not used which subsequently prove to have a value above such limits shall be reported to the Chief Executive, and be recorded in an appropriate Foundation Trust record.

6.73 Waiving of Formal Tendering / Quotation Procedures

6.73.1 EU tendering procedure must be followed in all cases where a proposed tender has a value in excess of EU thresholds.

6.73.2 Advice as to the current EU thresholds can be obtained from the Procurement Department. For proposed tenders below those thresholds, competitive tendering procedures may be waived (although a tender should still be completed for submission to a single source) by officers to whom powers have been delegated by the Chief Executive without reference to them where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed £20,000 (exclusive of VAT) or
- (b) where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with; or
- (c) goods are genuinely only available from only one supplier, (this must be substantiated by documentary evidence) or
- (f) the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate; The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.
- (g) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering; or
- (h) where provided for in the FT ARM issued by NHS Improvement: or
- (i) the supply of legal advice and services, provided that any legal firm or partnership commissioned by the Foundation Trust is regulated by the Law Society for England and Wales for the conduct of its business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and is generally recognised as having sufficient expertise in the area of work for which it is commissioned: the Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for such work.

- (j) A consortium or a national agreement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members.

6.73.3 Where it is decided that competitive tendering is not applicable and should be waived by virtue of (a) to (j) above, a single tender/quotation action form should be completed.

6.73.4 For proposed tenders below current EU thresholds, competitive tendering procedures may be waived altogether by officers to whom powers have been delegated by the Chief Executive without reference to them where:

- (a) the timescale genuinely precludes competitive tendering (failure to plan work properly, is not a justification for a non-competitive tender); or

a) specialist expertise is required and is available from only one source; or

b) the service falls under the “light-touch” regime as outlined in the OJEU regulations.

6.73.5 Where it is decided that tendering is not applicable and should be waived by virtue of (a) to (c) above the fact of the waiver and the reasons should be documented and reported in writing to the Chief Executive.

6.74. Competitive Tenders and Quotations

6.74.1 Wherever practicable, at least three competitive tenders or quotations shall be obtained for the supply of goods or services in accordance with the Trust Delegated Financial Limits Table B Section 1.

6.75. Contracting / Tendering Procedure

6.75.1 Invitation to Tender

6.75.1.1 All invitations to tender shall state the latest date and time for the receipt of tenders.

6.75.1.2 Every tender for goods, materials, manufactured articles supplied as part of a works contract and services shall embody such of the main contract conditions as may be appropriate in accordance with the contract forms described in 6.78.1.4 and 6.78.1.5 below.

6.75.1.3 Every tender for building or engineering works, except for maintenance work only, where Estmancode guidance should be followed, shall embody or be in the terms of the current edition of the appropriate Joint Contracts Tribunal (JCT) or Department of the Environment (GC/Wks) standard forms of contract amended as appropriate. When the content of the works is primarily engineering, tenders shall embody or be in the terms of the General Conditions of Contract recommended by the Institute of Mechanical Engineers, Institution of Engineering and Technology and the Association of Consulting Engineers (Form A) or, in the case of civil engineering work, the General Conditions of Contract recommended by the Institution of Civil Engineers, the Association of Consulting Engineers and the Civil Engineering Contractors Association. The standard documents should be amended to comply with Department of Health guidance and, in minor respects, to cover special features of individual projects.

6.75.1.4 Every tender for goods, materials, services (including consultancy services) or disposals shall embody such of the NHS Standard Contract Conditions as are applicable. Every tenderer must have given or give a written undertaking not to engage in collusive tendering or other restrictive practices.

6.75.1.5 Tendering based on other forms of contract may be used only after prior consultation with the

Independent Regulator.

6.76.2 Receipt and safe custody of tenders

- 6.76.2.1 No tender submitted using e-tendering will be considered unless it is received in the format requested by the Trust in the tender documents and at the electronic address specified by the Trust and unless it is received prior to the deadline for the receipt of tenders, as stated in the tender documents.
- 6.76.2.2 The Head of Procurement, or authorised member of their staff, shall ensure that each tender is kept unopened in a single secure electronic mailbox that cannot be opened before the deadline for the receipt of tenders
- 6.76.2.3 The system used must not allow the identity of the contractor submitting the tender to be revealed prior to the tender being opened after the deadline for the receipt of tenders.
- 6.76.2.4 The Head of Procurement, or authorised member of their staff, shall ensure that for each procurement project, the system used shall maintain and, if required, produce a record showing the time and date of receipt of all tenders received.
- 6.76.2.5 Late tenders, tenders received in the wrong format or not at the notified address will not be considered and they shall be returned to the tenderer with an explanation as to why that tender has not been considered.

6.77.3 Late, incomplete and amended tenders

- 6.77.3.1 Suppliers wishing to submit tenders after the due time and date may be considered only if the Chief Executive or Deputy Chief Executive decides that there are exceptional circumstances such as IT system failure. The Chief Executive or Deputy Chief Executive shall decide whether such tenders are admissible and whether re-tendering is desirable. Re-tendering must not be limited to only late submissions and must include all bidders. For OJEU tenders, if retendering is required, then the current tender process must be aborted and a new tender started with a new advertising opportunity in OJEU.
- 6.77.3.2 Evidence of technically late tenders (i.e. those despatched in good time but delayed through no fault of the tenderer e.g. failures of the e-procurement system) must have supporting evidence stored safely in the relevant tender folder if the justification and evidence is not clearly apparent on the e-tendering portal.
- 6.77.3.3 Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer on his own initiative either orally or in writing after the due time for receipt) will be rejected.
- 6.77.3.4 Where examination of tenders reveals errors which would affect the tender figure, the tenderer is to be given details of such errors and afforded the opportunity of confirming or withdrawing his offer, however this must be done in the "Clarification Stage" of the tender process. Procurement must ensure transparency and fairness in all dealings with the bidders involved in the tender process. All communication must be through the e-procurement portal.
- 6.77.3.5 Necessary discussions with a tenderer of the contents of his tender, in order to elucidate technical points etc. before the award of a contract can only be carried out by the Procurement Department as part of the clarification stage and all communications must be through the e-tendering portal.

6.77.4 Register of tenders

6.77.4.1 Details of all tenders, which have been invited using e-tendering, will be entered in the Register of Tenders, held by the Head of Procurement.

6.77.5 Acceptance

6.77.5.1 Acceptance of tenders invited using e-tendering shall be made in accordance with rules and mandatory requirements associated with the tender and in compliance with the Standing Financial Instructions.

6.77.6 Use of electronic auctions

6.77.6.1 The Foundation Trust at its discretion may, if the category of procured goods or service is suitable, use an electronic auction to obtain tender submissions. The Trust will follow prevailing guidance from the DoH or GPS to decide if an e-Auction is required.

6.77.6.2 Under Article 54 (Use of eAuctions) of the Public Sector Directive 2004/18/EC (which is adopted in the UK by the Public Contracts Regulations 2006), in open, restricted or negotiated procedures in the case referred to in Article 30 (1) (a) the Foundation Trust may decide that the award of a public contract shall be preceded by an electronic auction when the contract specifications can be established with precision.

6.77.6.3 The electronic auction shall be based:

- a) either solely on prices when the contract is awarded to the lowest price; or
- b) on prices and/or on the new values of the features indicated in the specification when the contract is awarded to the most economically advantageous tender.

6.77.6.4 Should it decide to hold an electronic auction, the Foundation Trust shall state that fact in the contract notice.

6.77.6.5 The specifications shall include, inter alia, the following details:

- a) the features of the products whose costs shall be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;
- b) any limits on the values which may be submitted, as they result from the specifications relating to the subject of the contract;
- c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- d) the relevant information concerning the electronic auction process;
- e) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

6.77.6.6 Before proceeding with the electronic auction, the Foundation Trust shall make a full initial evaluation of the specification in accordance with the award criteria set and the weighting fixed for them. Clarification will also be sought via the paper-based tender route that the tenderers accept the proposed terms and conditions and that the non-collusion document has been completed.

6.77.6.7 All tenderers who have been selected shall be invited simultaneously by electronic means to submit prices and/or values. The invitation shall contain all relevant information concerning individual connection to the electronic equipment being used and shall state the date and time of the start of the electronic auction. The electronic auction may take place in a number of

successive phases. The electronic auction may not start sooner than two working days after the date on which invitations are sent out.

6.77.6.8 Throughout each phase of an electronic auction the Foundation Trust shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment. The Foundation Trust may also communicate points of clarification via the electronic auction process provided that the specification is not changed in any way and that the information is sent to all participants. The Foundation Trust may also at any time announce the number of participants in that phase of the auction. In no case, however, may the Foundation Trust disclose the identities of the tenderers during any phase of an electronic auction, nor the values of their bids.

6.77.6.9 The Foundation Trust shall close an electronic auction at either of the following times:

- a) in the invitation to take part in the auction, the date and time shall be indicated, fixed in advance.
- b) closure will be when no more new prices are received, or new values which meet the requirements concerning minimum differences (in this case the Foundation Trust shall state in the invitation to take part in the auction the time which will be allowed to elapse after receipt of the last submission before the electronic auction is closed).

6.77.6.10 When the Foundation Trust has closed an electronic auction and satisfied itself as to specification compliance and value for money, the Foundation Trust shall award the contract in accordance with the Foundation Trust's Standing Orders and Standing Financial Instructions.

6.77.6.11 The Foundation Trust may not have improper recourse to electronic auctions nor may they be used in such a way as to prevent, restrict or distort competition or to change the subject of the contract as put up for tender in the published contract notice and defined in the specification

6.77.6.12 Following tender approval / contract award the electronic tender documents shall be stored by the electronic auction service provider for the appropriate time period in accordance with Department of Health guidance concerning the preservation, retention and destruction of records.

6.77.6.13 The selection of the eAuction service provider shall meet the following standards:

- Means of communication must not restrict access to a tendering procedure for potential participants. They must be non-discriminatory, generally available and capable of operation with IT products in general use.
- The communication and storage of tenders must protect the integrity of the content.

6.77.6.14 The Foundation Trust must satisfy itself annually that the appointed service provider has the necessary protocols in place to meet the above requirements along with satisfactory archive and retrieval processes. The process shall be fully documented by the service provider with agreed service levels. Furthermore, the Foundation Trust shall obtain a formal and independent affirmation of the controls operated by any service provider which supports electronic auctions and receive periodic updates of this assurance.

6.77.7 Acceptance of tenders

6.77.7.1 Tenders must be evaluated and assessed on the basis of the evaluation criteria, sub criteria and marking schemes disclosed to the bidders in the relative tender. Tenders and quotes can only be advertised and conducted as either:

- a) Based on the cheapest prices submitted, in which case no other objective or evaluation criteria need to be assessed except the price of the product or service.
- b) Most Economically Advantageous Tender (MEAT). In considering which bid to accept, if any, the designated officers shall have regard price, cost, total life cycle costing, sustainability and environmental factors, running costs, maintenance costs and, technical support, staffing implications, product quality, and ethical sourcing. Any evaluation criteria, sub criteria or marking scheme, must be disclosed to the bidders prior to the launch of the tender in accordance with the Public Contract Regulation. If the number of tenders received does not provide adequate competition, the tender exercise may be re-launched.

In such actions or in the case of doubt, the Chief Executive may be consulted for his authorisation to proceed with the award or re-conduct the tender process.

6.77.7.2 Where only one tender/quotation is received the Foundation Trust shall, as far as practicable, ensure that the price to be paid is fair and reasonable against available benchmarks.

6.77.7.3 A tender other than the lowest (if payment is to be made by the Foundation Trust) or other than the highest (if payment is to be received by the Foundation Trust) may be accepted if evaluation criteria prove that the Trust is receiving the MEAT. Where other factors are taken into account in selecting a tenderer, these must be clearly recorded and documented in the contract file. All awarded tenders will be reported to the Board highlighting whether the lowest/highest was awarded. All evaluation scores will be retained by the Trust to ensure that this can be audited and reviewed by the Board when requested.

6.77.7.4 It is accepted that for professional services such as management consultancy the lowest price does not always represent the best value for money. Other factors affecting the success of a project include:

- a) experience and qualifications of team members
- b) understanding of client's needs
- c) feasibility and credibility of proposed approach
- d) ability to complete the project on time

Where other factors are taken into account in selecting a tenderer, these must be clearly shared with the bidder, comply with the Regulation and always be recorded and documented in the contract file and the reason(s) for not accepting the lowest tender clearly stated.

6.77.7.5 No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Foundation Trust and which is not in accordance with these Standing Financial Instructions except with the authorisation of the Chief Executive or the Deputy Chief Executive in their absence.

6.77.7.6 The use of these procedures must demonstrate that the award of the contract was:

- a) not in excess of the going market rate / price current at the time the contract was awarded
- b) MEAT

6.77.7.7 Where the form of contract includes a fluctuation clause, all applications for price variations must be submitted in writing by the tenderer and shall be approved by the Chief Executive or Deputy Chief Executive.

6.77.7.8 All tender documents, responses, communications must be retained by the Trust or the e-Tendering provider but must remain at all times the property of CWP

6.77.7.9 If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive (e.g. because their numbers are insufficient or any are amended, incomplete or qualified), no contract shall be awarded without the approval of the Chief Executive or the Deputy Chief Executive in their absence.

6.77.8 Tender reports to the Board of Directors

6.78.8.1 Tender reports to the Board will be made on an exceptional circumstance basis only. The Scheme of Delegation states the value of tender award that has to be authorised by the Board.

6.77.9 List of approved firms

6.77.9.1 Responsibility for maintaining list

A manager nominated by the Chief Executive shall on behalf of the Trust maintain lists of approved firms from who tenders and quotations may be invited. These shall be kept under frequent review. The lists shall include all firms who have applied for permission to tender and as to whose technical and financial competence the Foundation Trust is satisfied. All suppliers must be made aware of the Foundation Trust's terms and conditions of contract.

6.77.9.2 Building and Engineering Construction Works

- i. Invitations to tender shall be made only to firms included on the approved list of tenderers compiled in accordance with this Instruction or on the separate maintenance lists compiled in accordance with Estmancode guidance (Health Notice HN(78)147).
- ii. Firms included on the approved list of tenderers shall ensure that when engaging, training, promoting or dismissing employees or in any conditions of employment, shall not discriminate against any person because of colour, race, ethnic or national origins, religion or sex, and will comply with the provisions of the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, and the Disabled Persons (Employment) Act 1944 and any amending and/or related legislation.
- iii. Firms shall conform at least with the requirements of the Health and Safety at Work Act and any amending and/or other related legislation concerned with the health, safety and welfare of workers and other persons, and to any relevant British Standard Code of Practice issued by the British Standard Institution. Firms must provide to the appropriate manager a copy of its safety policy and evidence of the safety of plant and equipment, when requested.

6.77.9.3 Financial Standing and Technical Competence of Contractors

The Director of Finance may make or institute any enquiries they deem appropriate concerning the financial standing and financial suitability of approved contractors. The Director with lead responsibility for clinical governance will similarly make such enquiries as is felt appropriate to be satisfied as to their technical / medical competence.

6.77.10 Exceptions to using approved contractors

6.77.10.1 If in the opinion of the Chief Executive and the Director of Finance or the Director with lead responsibility for clinical governance it is impractical to use a potential contractor from the list of approved firms/individuals (for example where specialist services or skills are required and there are insufficient suitable potential contractors on the list), or where a list for whatever

reason has not been prepared, the Chief Executive should ensure that appropriate checks are carried out as to the technical and financial capability of those firms that are invited to tender or quote.

An appropriate record in the contract file should be made of the reasons for inviting a tender or quote other than from an approved list.

6.78 Quotations: Competitive and non-competitive

6.78.1 Quotation Procedures

- 6.78.1.1 Quotations must be obtained in writing as specified in the Delegated Financial Limits Table B Section 1 of the Corporate Governance Manual.
- 6.78.1.2 Quotations should be obtained from at least 3 firms/individuals based on specifications or terms of reference prepared by, or on behalf of, the Foundation Trust.
- 6.78.1.3 Quotations should be in writing unless the Director of Finance or their nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotations should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.
- 6.78.1.4 Quotations will be submitted in a sealed envelope, stating closing date and quotation reference and will be addressed to the nominated Receiving Officer.
- 6.78.1.5 A Quotation Register Sheet (Attachment 4, p.103) will be prepared by the issuing department before the due date.
- 6.78.1.6 Quotations received after the stated date and time shall be marked 'Received Late' together with actual date and time of receipt by the Receiving Officer
- 6.78.1.7 Quotations shall be opened on the due date in the presence of at least two Authorised Officers as designated by the Chief Executive. The Authorised Officers will not have been involved in procuring the quotations.
- 6.78.1.8 The Authorised Officers will initial the price on each quotation and enter the Quotation details on the Quotation Register Sheet (Attachment 4, p.103) which will also be signed by those present at the opening.
- 6.78.1.9 On completion of the opening arrangements, the envelopes, contents and a copy of the Quotation Register Sheet (Attachment 4, p.103) should be passed to the originating department.
- 6.78.1.10 where only one quotation is received the Foundation Trust shall, as far as practicable, ensure that the price to be paid is fair and reasonable, obtaining an independent assessment if required.
- 6.78.1.11 A quotation other than the lowest (if payment is to be made by the Foundation Trust), or other than the highest (if payment is to be received by the Foundation Trust) shall not be accepted unless there are good reasons to the contrary. Such reasons shall be set out in a permanent record and be reported to the Board.
- 6.78.1.12 all quotation documentation should be treated as confidential and should be retained for

inspection / audit.

6.78.1.13 Non-Competitive Quotations

Non-competitive quotations in writing may be obtained in the following circumstances:

- i) the supply of proprietary or other goods of a special character and the rendering of services of a special character, for which it is not, in the opinion of the responsible officer, possible or desirable to obtain competitive quotations;
- ii) the supply of goods or manufactured articles of any kind which are required quickly and are not obtainable under existing contracts;
- iii) miscellaneous services, supplies and disposals;
- iv) where the goods or services are for building and engineering maintenance the responsible works manager must certify that the first two conditions of this SFI (i.e.: (i) and (ii) of this SFI) apply.

6.78.2. Quotations to be within Financial Limits

No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Foundation Trust and which is not in accordance with Standing Financial Instructions except with the authorisation of either the Chief Executive or Director of Finance.

6.79 Instances where formal competitive tendering or competitive quotation is not required

6.79.1 Where competitive tendering or a competitive quotation is not required the Foundation Trust should adopt one of the following alternatives:

- a. the Foundation Trust shall use the NHS Logistics for procurement of all goods and services unless the Chief Executive or nominated officers deem it inappropriate. The decision to use alternative sources must be documented.
- b. If the Foundation Trust does not use the NHS Logistics - where tenders or quotations are not required, because expenditure is below the levels defined in the Scheme of Reservation and Delegation, the Foundation Trust shall procure goods and services in accordance with procurement procedures approved by the Director of Finance.

6.80 Private Finance for capital procurement

6.80.1 The Foundation Trust should normally market-test for PFI (Private Finance Initiative funding) when considering a capital procurement. When the Board proposes, or is required, to use finance provided by the private sector the following should apply:

- a) The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
- b) Where the sum exceeds delegated limits, a business case must be referred to the appropriate Department of Health for approval or treated as per current guidelines.
- c) The proposal must be specifically agreed by the Board of the Foundation Trust.
- d) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

6.81 Compliance requirements for all contracts

6.81.1 The Board may only enter into contracts on behalf of the Foundation Trust within the statutory powers delegated to it by the Secretary of State and shall comply with:

- a. the Foundation Trust's Standing Orders and Standing Financial Instructions;
- b. EU Directives and other statutory provisions;
- c. any relevant directions including the NHS FREM, Estate code and guidance on the Procurement and Management of Consultants;
- d. such of the NHS Standard Contract Conditions as are applicable.
- e. contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance.
- f. Where appropriate contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited.
- g. In all contracts made by the Foundation Trust, the Board shall endeavour to obtain best value for money by use of all systems in place. The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the Foundation Trust.

6.82 Foundation Trust Contracts / Healthcare Services Agreements

6.82.1 Service agreements with NHS providers for the supply of healthcare services shall be drawn up in accordance with the requirements of the law. A contract with a Foundation Trust, being a Public Benefits Corporation, is a legal document and is enforceable in law.

6.82.2 The Chief Executive shall nominate officers to commission service agreements with providers of healthcare in line with a commissioning plan approved by the Board of Directors (refer to Scheme of Reservation and Delegation).

6.83 Disposals (See also Section 6.50 Condemnations and Disposals)

6.83.1 Competitive Tendering or Quotation procedures shall not apply to the disposal of:

- a. any matter in respect of which a fair price can be obtained only by negotiation or sale by auction as determined (or pre-determined in a reserve) by the Chief Executive or their nominated officer;
- b. obsolete or condemned articles and stores, which may be disposed of in accordance with the supplies policy of the Foundation Trust;
- c. items to be disposed of with an estimated sale value of less than that defined on the Scheme of Delegation, this figure to be reviewed on a periodic basis;
- d. items arising from works of construction, demolition or site clearance, which should be dealt with in accordance with the relevant contract;
- e. land or buildings concerning which DH guidance has been issued but subject to compliance with such guidance.

6.84 In-house Services

6.84.1 The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis. The Foundation Trust may also determine from time to time that in-house services should be market tested by competitive tendering.

6.84.2 In all cases where the Board of Directors determines that in-house services should be subject to competitive tendering the following groups shall be set up:

- a. Specification group, comprising the Chief Executive or nominated officer/s and specialist.
- b. In-house tender group, comprising a nominee of the Chief Executive and technical support.
- c. Evaluation team, comprising normally a specialist officer, a supplies officer and a Director of Finance representative.

6.84.3 All groups should work independently of each other and individual officers may be a member of more than one group but no member of the in-house tender group may participate in the evaluation of tenders.

6.84.4 The evaluation team shall make recommendations to the Board of Directors.

6.84.5 The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the Foundation Trust.

6.85 Applicability of SFIs on Tendering and Contracting to funds held in trust

6.85.1 These Instructions shall not only apply to expenditure from Exchequer funds but also to works, services and goods purchased from the Foundation Trust's trust funds and private resources.

6.86 Policy on Gifts, Hospitality and Sponsorship

6.86.1 Introduction

6.86.1.1 The Director of Finance shall ensure that all staff are made aware of the Foundation Trust policy on receipt of gifts, hospitality and sponsorship, and other benefits in kind by staff.

6.86.1.2 This policy follows the guidance contained in the Department of Health Standards of Business Conduct for NHS Staff (see Section below) and is an integral part of the Standing Orders and Standing Financial Instructions.

In 2016, rules relating to the recording of the receipt of gifts (including cash payments) and hospitality by NHS organisations and their employees from pharmaceutical and medical device companies has been tightened. This is being referred to as the 'Sunshine Rule' and is designed to ensure transparency around relationships between such companies and the NHS. The requirement for NHS organisations to maintain such records is now written into the NHS standard contract. **NHS staff found not complying with the requirement to declare gifts and hospitality could be subject to disciplinary action and more serious allegations involving fraud, bribery or corruption will involve criminal investigations and prosecutions where appropriate.**

Linked to this, in addition to the requirement for NHS staff to declare gifts and hospitality, etc. to their NHS employer, a new national database will be made publicly available by the Association of the British Pharmaceutical Industry (ABPI) from June 2016. This searchable database will show details of benefits given in cash or in kind (termed 'transfers of value') by pharmaceutical companies to healthcare organisations and individual healthcare professionals. The public ABPI record will be able to be cross matched against the Trust's own records of declarations of gifts and hospitality, etc. and will identify where employees are failing to formally declare such relationships to the Trust.

The Human Medicines Regulations 2012 (SI 2012 No.1916) provides current legislation prohibiting the offering of gifts, pecuniary advantage and hospitality (unless inexpensive and relevant to the practice of medicine or pharmacy) by those promoting medicines to any person qualified to prescribe or supply

them. Anyone convicted of an offence under these regulations faces a fine and up to two years imprisonment.

6.86.1.3 For the sake of (a) clarity regarding the use of public funds, (b) the need for value for money in incurring public expenditure and (c) to ensure that the Foundation Trust is clearly seen to be acting impartially and honestly and its employees beyond suspicion, the Board has endorsed the following policy.

6.86.1.4 There is no legal limit prescribed in relation to offers or acceptance of gifts and hospitality within the NHS; it is the responsibility of individual health bodies to put appropriate arrangements in place. As a result, it is the policy of CWP that any offer or acceptance of a gift or hospitality must be declared will be entered onto the CWP Staff Gifts, Hospitality and Sponsorship Register. For Executive Directors and Non-Executive Directors, a separate register of Gifts, Hospitality and Sponsorship is kept.

6.86.1.5 Hospitality is not the 'norm' when conducting business; it should only be provided when necessary. The use of NHS monies for hospitality and entertainment, including hospitality at conferences and seminars, should be considered with utmost due care and diligence.

6.86.1.6 Gifts should generally be politely but firmly declined.

6.86.1.7 Expenditure on hospitality and the receipt of gifts or sponsorship is open to challenge by internal and external audit and inappropriate actions can cause lasting damage to the NHS in the eyes of the community.

6.87 Gifts and Hospitality

6.87.1 Modest hospitality, provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer.

6.87.2 More costly or more sensitive hospitality especially where a flight or an overnight stay is involved will always require prior approval from an executive director or other senior manager.

6.87.3 If an individual is involved in a purchasing decision from an organization which has previously provided hospitality, he/she must declare an interest and, depending on circumstances, may not be able to take any further part in that purchasing decision.

6.87.4 Wherever possible staff should not solicit or accept gifts, although it may be possible to accept unsolicited gifts or tokens of gratitude of low value where to refuse may cause offence. Gifts received by members of staff fall into two main categories;

- tokens of gratitude from service users, carers or friends and families;
- those provided by contractors or suppliers (these in particular should be declined as accepting such offers might constitute an offence under the Bribery Act 2010).

6.88.5. For the purpose of clarity,

- articles of low intrinsic value that **DO NOT** exceed £10.00 (e.g., pens, calendars, diaries, sweets, chocolates, flowers etc.) may be accepted and **DO NOT** need to be declared;
- in **NO** circumstances should money or equivalent (e.g., lottery tickets, betting slips, vouchers, gift cards) be accepted;
- several small gifts collectively worth more than £100 received from the same, or closely related source, in a 12 month period **DO** need to be declared;

- where several members of staff individually receive gifts from the same source at the same time and the total value is in excess of £100.00, these **DO** need to be declared
- significant gifts from service users, carers, family or friends should be politely declined.

6.88.6. If there is any doubt about the appropriateness of accepting a gift, staff should either politely decline or consult their line manager / the Head of Corporate Affairs.

6.88.7 Gifts of money or donations to Foundation Trust Charitable Funds would be welcome in most circumstances and will be receipted and utilised in accordance with the wishes of the donor. See charity leaflet on how to go about this.

Sponsorship

Sponsorship is, and will continue to be, an important aspect of 'funding' for on-site educational events and therefore a positive benefit to patients. As such, sponsorship of such events is encouraged. **Care must be taken however, to ensure that such sponsorship gives no commercial advantage to the sponsor.**

Sponsorship may include the following:

- **Training Events.** Employees may be offered attendance at general courses or conferences sponsored by or at the request of an individual or organisation. All such offers must provide for a clear and transparent benefit to the Trust and this should be recorded. Any events which rely heavily on the use of sponsored materials should be discouraged unless they promote good practice agreed to by the Trust. Employees attending such events will be required to supply a copy of the events itinerary in support of their attendance at a sponsored event, to show that there are reasonable restrictions on the time associated to recreational purposes
- **Conferences.** Acceptance by employees of commercial sponsorship for attendance at conferences and courses relevant to their responsibilities and duties of the employee is acceptable, but only where the employee seeks written permission in advance from the Director of Finance and the Trust is satisfied that acceptance will not compromise purchasing decisions in any way
- **Sponsorship of Meetings.** Sponsorship of meetings, management or educational events may be authorised by the appropriate Director in consultation with the Director of Finance, provided that the content of the programme, speakers and attendees are independent of the sponsor(s). If separate from the purpose of the meeting, sponsor(s) may use the event for publicity. Sponsor(s) will be acknowledged for their support

This procedure does not apply to training courses/conferences where attendance by employees has been funded by the Trust and at which there are trade stands.

Under no circumstances should sponsorship be accepted where conferences and events are **not** relevant to the responsibilities and duties of the individual and of no benefit to the Trust or patient care.

Employees attending sponsored training events and conferences (as per 9.3.2) will be required to supply a copy of the events itinerary in support of their attendance at a sponsored event, to show that there are reasonable restrictions on the time associated to recreational purposes.

Anyone receiving an approach regarding any other sponsorship should request that the details be put in writing, and upon receipt Appendix C of this policy must be completed.

For regular sponsorship i.e. not a one off event, a written Sponsorship Agreement will also be required.

If the organiser of a sponsored event suspects that the sponsor is seeking clear commercial advantage or is afforded a commercial opportunity to the disadvantage of others then the proposed sponsorship should be declined and recorded. Alternatively the organiser should ensure that similar opportunities for sponsorship are available to other organisations.

All sponsorship will be recorded, by the Director of Finance's office, into the Hospitality, Sponsorship and Gifts Register maintained for this purpose to ensure probity, openness and transparency.

An expenses claim must not be made under the Trust's travel and subsistence system for items of sponsorship provided to a Trust employee. Such actions would be considered fraudulent and as such could result in disciplinary action being taken including dismissal and may lead to prosecution and civil recovery proceedings. Suspicions of such fraudulent claims should be referred to the LCFS for investigation.

Members of Trust staff receiving payment for the presentation of training sessions, running sessions, acting as guest speakers, etc. within their normal NHS working times should remit the payment promptly to the Trust's charitable funds which can then be used to support education needs. Failure to comply with this may be considered fraudulent (i.e. an issue of dual remuneration) and subject to investigation by the Trust's LCFS. If however, the payment relates to periods of annual leave or out of hours working, then it is considered good practice to declare this activity, although this is not mandatory. In any event, the activity must not conflict with NHS work or with the principles outlined in this policy.

6.88 Retention of Documents

6.88.1 Context

6.88.1.1 All NHS records are public records under the terms of the Public Records Act 1958 section 3 (1) – (2). The Secretary of State for Health and all NHS organisations have a duty under this Act to make arrangements for the safe keeping and eventual disposal of all types of records. In addition, the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 must be achieved.

6.88.2 Accountability

6.88.2.1 The Chief Executive and senior managers are personally accountable for records management within the organisation. Additionally, the organisation is required to take positive ownership of, and responsibility for, the records legacy of predecessor organisations and / or obsolete services. Under the Public Records Act all NHS employees are responsible for any records that they create or use in the course of their duties. Thus any records created by an employee of the NHS are public records and may be subject to both legal and professional obligations.

6.88.2.2 The Chief Executive shall be responsible for maintaining archives for all documents required to be retained under the direction contained in Department of Health guidance, Records Management Code of Practice.

6.89 Types of Record Covered by the Code of Practice

6.89.1 The guidelines apply to NHS records of all types (including records of NHS patients treated on behalf of the NHS in the private healthcare sector) regardless of the media on which they are held:

- Patient health records (electronic or paper based) Records of private patients seen on NHS premises; Accident and emergency, birth and all other registers;
- Theatre registers and minor operations (and other related) registers;
- Administrative records (including e.g. personnel, estates, financial and accounting records, notes associated with complaint-handling);

- X-ray and imaging reports, output and other images; Photographs, slides and other images;
- Microform (i.e. fiche / film)
- Audio and video tapes, cassettes, CD-ROM etc. Emails;
- Computerised records;
- Scanned records;
- Text messages (both out-going from the NHS and in-coming responses from the patient)

6.89.2 The documents held in archives shall be capable of retrieval by authorised persons.

6.89.3 Documents held in accordance with the Records Management Code of Practice shall only be destroyed at the express instigation of the Chief Executive; records shall be maintained of documents so destroyed.

6.90. Risk Management and Insurance

6.90.1 Programme of Risk Management

6.90.1.1 The Chief Executive shall ensure that the Foundation Trust has a programme of risk management, which must be approved and monitored by the Board of Directors.

6.90.1.2 The programme of risk management shall include:

- a. a process for identifying and quantifying risks and potential liabilities;
- b. engendering among all levels of staff a positive attitude towards the control of risk;
- c. management processes to ensure all significant risks and potential liabilities are addressed including effective systems of internal control, cost effective insurance cover, and decisions on the acceptable level of retained risk;
- d. contingency plans to offset the impact of adverse events;
- e. audit arrangements including; Internal Audit, clinical audit, health and safety review;
- f. a clear indication of which risks shall be insured;
- g. arrangements to review the Risk Management programme.

6.90.1.3 The existence, integration and evaluation of the above elements will assist in providing a basis to make a Statement on the effectiveness of Internal Control (SIC) within the Annual Report and Accounts as required by current Department of Health guidance.

6.91 Insurance arrangements

6.91.1 The Board shall decide if the Foundation Trust will insure through the risk pooling schemes administered by the NHS Litigation Authority or self-insure for some or all of the risks covered by the risk pooling schemes. If the Board decides not to use the risk pooling schemes for any of the risk areas (clinical, property and employers/third party liability) covered by the scheme this decision shall be reviewed annually.

6.91.2 Arrangements to be followed by the Board of Directors in agreeing Insurance cover

- a) Where the Board decides to use the risk pooling schemes administered by the NHS Litigation

Authority the Director of Finance shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements

- b) Where the Board decides not to use the risk pooling schemes administered by the NHS Litigation Authority for one or other of the risks covered by the schemes, the Director of Finance shall ensure that the Board is informed of the nature and extent of the risks that are self-insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses which will not be reimbursed
- c) All the risk pooling schemes require Scheme members to make some contribution to the settlement of claims (the 'deductible'). The Director of Finance should ensure documented procedures also cover the management of claims and payments below the deductible in each case.

6.91.3 Standard Areas for Commercial Insurance Cover

- a) Foundation Trust's may enter commercial arrangements for insuring motor vehicles owned by the Foundation Trust including insuring third party liability arising from their use
- b) where the Foundation Trust is involved with a consortium in a Private Finance Initiative contract and the other consortium members require that commercial insurance arrangements are entered into; and
- c) where income generation activities take place. Income generation activities should normally be insured against all risks using commercial insurance. If the income generation activity is also an activity normally carried out by the Foundation Trust for a NHS purpose the activity may be covered in the risk pool. Confirmation of coverage in the risk pool must be obtained from the Litigation Authority. In any case of doubt concerning a Foundation Trust's powers to enter into commercial insurance arrangements the Finance Director should consult the Department of Health.

6.91.4 Consideration for Other Areas of Insurance Cover

As a Foundation Trust the Board need to consider the adequacy of insurance cover recognising the Public Benefit Corporation status. Key areas to consider include:

- a. Directors and Officers Liability – Recognising the cover available through the NHSLA, consideration is required to the adequacy of the cover in respect of selling assets, entering into contracts and insolvency indemnity cover
- b. Property damage – consider the provision for underwriting claims
- c. Business interruption resulting from property damage – consider the provision to cover for loss of income

6.92 Policy on Virements

6.93.1 Virements are transfers of funding between budgets.

6.92.2 Proposed virements to areas outside of a budget holder's responsibility must always be approved first

by the budget holders affected. They must then be authorised in accordance with the rules laid out below, before they can be actioned.

- 6.92.3 Whilst recognising that some virements will be necessary each year, for administrative reasons they should be kept to a minimum. All virements should be supported by a brief justification / explanation.

6.93 Revenue to revenue

- 6.93.1 Where a budget is to be vired from one cost centre to another and each cost centre is managed by the same Budget Holder, i.e. within the same budget holder area of responsibility – there is no requirement to complete a Budget Virement Request Form. All recurrent virements will be reviewed with the Business Accountant on a quarterly basis and be signed off by the Service Director/Head of Clinical Support Service (or their nominated deputy).
- 6.93.2 Where a budget is to be vired between localities or clinical support services– a Budget Virement Request Form (included at Attachment 5) must be completed, signed by both parties, and forwarded to the Business Accountant.

Standing Financial Instructions Attachment 1

Overview of European Procurement Legislation

This attachment aims to provide a basic understanding of the rules when dealing with tenders and procurements.

What is 'OJEU'?

'OJEU' stands for the Official Journal of the European Union. It is a publication in which public authorities have to publish notices of their procurements that exceed a threshold value.

Up to date threshold values can be found at <http://www.ojec.com/Thresholds.aspx>

Contracting authorities are required to place a contract notice advertising their procurements and a subsequent award notice.

Public Procurement Directives

The European Commission publishes directives on public procurement and these are transposed into UK legislation. There are separate directives covering goods (called supplies), services and works. There are three award procedures available for use: open, restricted and negotiated procedures.

Minimum timescales are prescribed for:

- Interested companies to register an interest in the contract
- Tenders to be invited
- Award notices to be placed in OJEU Debriefing of tenderers
- Public authorities are required to adhere to certain principles, irrespective of whether a procurement is caught by the directives and irrespective of the award procedure used. Among these principles are:
 - Openness
 - Transparency
 - Equal chances for all, irrespective of nationality
 - Non-discriminatory specifications

The directives apply across all the EU countries. Public authorities have a duty to comply and should be aware that a Court could award damages against a contracting authority in the favour of the injured party. In addition the contract could be set aside or suspended pending judgement.

Hiring, leasing, renting, hire purchase and similar arrangements are treated as straightforward purchases for the purposes of the directives.

The Award Procedures

The open award procedure allows any potential supplier to apply for a tender invitation and to submit a tender.

The restricted award procedure sets two distinct stages. First the potential suppliers must submit an expression of interest in the advertised tender and must accompany that expression with any evidence requested by the contracting authority. From those who satisfy this first stage, tenders will be invited from some or all. Normally no fewer than five should be invited.

The criteria for selection at the first stage and for award at the second stage must be stated in advance. It follows that the actual selection and the actual award should strictly follow the stated criteria. New criteria should not be introduced later.

The negotiated award procedure is available to contracting authorities only in very limited and closely defined circumstances. Examples include –

- where open or restricted procedures have failed to result in any tenders or usable tenders where only one source of supply is available throughout the EU countries
- where it is not possible to develop a specification for the procurement or to price the procurement in advance of commencement of the process
- where the articles involved are manufactured purely for the purposes of research, experiment, study or development
- for reasons of extreme urgency brought about by events that could not be foreseen
- for additional deliveries by the original supplier, where a change in supplier would result in disproportionate difficulties.

This procedure allows for negotiation to take place at any stage of the process.

Impact on Foundation Trusts

In the UK each Foundation Trust is a separate contracting authority. This means that, even where a Foundation Trust purchases from another Foundation or NHS Trust, it must follow EU procurement directives. This applies irrespective of the fact that NHS bodies are not intended to take contractual disputes among themselves through the Courts.

It is for the contracting authority to decide which, directive to conduct its procurement under, which award procedure to use and to justify its use of negotiated procedure to select. In each case it should be prepared to justify and defend its decision if required to do so. Where the directives do not require some or any formalities, Foundation Trusts should still procure their goods, services and works in accordance with: the requirements of good purchasing practice, see <http://www.cips.org>. Treasury requirements in respect of UK public procurement see <http://www.ogc.gov.uk>

Standing Financial Instructions

It should be noted that nothing in a Trust's Standing Financial Instructions can override the EC directives.

The following are areas where proper account of the rules might be overlooked: extending a current contract were not previously provided for in the contract reappointing the current contractor without a competition mid-contract changes, including prices agreements between Trusts need to comply with EC directives awarding purely on grounds of clinical preference matching new equipment to the existing brand purely for convenience failing to apply only their stated selection criteria at selection stage failing to apply only their stated award criteria at award stage negotiation is not allowed at any stage when using the restricted or open award procedures differentiating between what are allowable and non allowable selection and award criteria wishing to rely on avoidable urgency to speed up the process.

OJEU adverts and invitations to tender should be carefully drafted if they are to be used to maximum advantage. It is possible to build in flexibility but lack of thought can lead to an unnecessarily restrictive result.

Advice

Sources of advice include: Supplies Manager, Clatterbridge PASA website <http://nww.pasa.nhs.uk> OGC website <http://www.ogc.gov.uk>

Standing Financial Instructions Attachment 2

APPLICATION FORM FOR WAIVER OF STANDING FINANCIAL INSTRUCTIONS TO ALLOW SINGLE TENDER/QUOTATION ACTION

This form is to be used for all proposed waivers (NB values to include VAT)

Section 1 - Notes
(NB Approval must be obtained BEFORE commencing any procurement)
All acts of procurement must achieve 'Best Value for Money', and this must always be demonstrable for Audit purposes. One of the reasons for not seeking competitive tenders (for expenditure over £20,000), or competitive quotations (for expenditure over £5,000) is where competition is not practicable. In such instances reliance has to be placed on professional advice.
Where this is the case the appropriate member of staff giving such advice must certify that there is no other acceptable source of supply. Single Tender authorisation is only permissible in very limited circumstances and must satisfy certain criteria. Specifications should be written in such a way as to maximise and not minimise competition.
This form has simplified guidance to facilitate compliance with SFI Section 6.76, and all seeking to procure goods or equipment exceeding £20,000 in value (ex VAT) without competition must submit this form for approval BEFORE any procurement action takes place. This form fulfils the requirement of SFI Section 6.76 for recording the reasons for a single tender/quotation action.
Section 2 – Details of Request
Name:
Title:
Department:
Description of goods or services requested:
Supplier :
Source of fund:
Total cost including VAT:
Section 3 – State reason why competition is not appropriate
Section 4 – Recommendation for approval
Request Submitted by (name):

Position / Title:	
Signature:*	
* This signature also confirms there is no declaration of interest in the company being used	
Date:	
Section 5 – Waiver authorisation	
Authorised by: Signature: Head of Procurement	Date
Signature: Director of Finance or Deputy Director of Finance (in the absence of DoF)	Date
Signature: Chief Executive or Director of Operations (in the absence of CEO)	Date
Reported to Board of Directors	Date
Board Reference	No:
Justified under SFI ref:6.75.2 (Please tick as appropriate)	
<ul style="list-style-type: none"> a) the estimated expenditure or income does not, or is not reasonably expected to, exceed £20,000 (exclusive of VAT) b) where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with c) goods are genuinely only available from only one supplier, (this must be substantiated by documentary evidence) d) the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate; The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure e) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering f) where provided for in the FT ARM issued by NHS Improvement g) the supply of legal advice and services, provided that any legal firm or partnership commissioned by 	

the Foundation Trust is regulated by the Law Society for England and Wales for the conduct of its business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and is generally recognised as having sufficient expertise in the area of work for which it is commissioned: the Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for such work

- h) A consortium or a national agreement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members

Standing Financial Instructions Attachment 3

APPLICATION FORM FOR WAIVER OF STANDING FINANCIAL INSTRUCTIONS TO ALLOW WAIVER OF TENDER/QUOTATION ACTION

This form is to be used for all proposed waivers (NB values to include VAT)

Section 1 - Notes
(NB Approval must be obtained BEFORE commencing any procurement)
All acts of procurement must achieve 'Best Value for Money', and this must always be demonstrable for Audit purposes. One of the reasons for not seeking competitive tenders (for expenditure over £20,000), or competitive quotations (for expenditure over £5,000) is where competition is not practicable. In such instances reliance has to be placed on professional advice.
Where this is the case the appropriate member of staff giving such advice must certify that there is no other acceptable source of supply. Single Tender authorisation is only permissible in very limited circumstances and must satisfy certain criteria. Specifications should be written in such a way as to maximise and not minimise competition.
This form has simplified guidance to facilitate compliance with SFI Section 6.76, and all seeking to procure goods or equipment exceeding £20,000 in value (ex VAT) without competition must submit this form for approval BEFORE any procurement action takes place. This form fulfils the requirement of SFI Section 6.76 for recording the reasons for a single tender/quotation action.
Section 2 – Details of Request
Name:
Title:
Department:
Description of goods or services requested:
Supplier :
Source of fund:
Total cost including VAT:
Section 3 – State reason why competition is not appropriate
Section 4 – Recommendation for approval

Request Submitted by (name):	
Position / Title:	
Signature:*	
* This signature also confirms there is no declaration of interest in the company being used	
Date:	
Section 5 – Waiver authorisation	
Authorised by: Signature: Head of Procurement	Date
Signature: Director of Finance or Deputy Director of Finance (in the absence of DoF)	Date
Signature: Chief Executive or Director of Operations (in the absence of CEO)	Date
Reported to Board of Directors	Date
Board Reference	No:
Justified under SFI ref:6.75.4 (Please tick as appropriate)	
<p>a) the timescale genuinely precludes competitive tendering (failure to plan work properly, is not a justification for a non-competitive tender); or</p> <p>b) specialist expertise is required and is available from only one source; or</p> <p>c) the service falls under the “light-touch” regime as outlined in the OJEU regulations.</p>	

Standing Financial Instructions Attachment 4

Tenders Received Log

Register Number:	
Tenders Invited for:	
Register Number:	
Time / Date for Receipt of Tenders:	
Opened Tenders to be returned to:	

No.	Name of Tenderer	Address of Tenderer	Tender Price	Result

We hereby certify that:

- a) The Tenders detailed above were each received in a sealed envelope that did not bear any name or mark indicating the sender
 - b) The details of prices of tenders received, which were opened in our presence are given above c)
- We recommend acceptance of the lowest tender subject to confirmation by the Chief Executive that there are no omissions from the tender documents.

Certified (signature):

Position/Title:

Date:

**Standing Financial Instructions Attachment 5
Quotation Register Sheet**

Quotation Issued by: _____ Department: _____

Quotation invited on behalf of Cheshire & Wirral Partnership NHS Foundation Trust			
Quotation number			
Date quotations invited			
Closing date for the return of quotations			
Details of quotation - item or service brief description			
Anticipated total value			
Names of companies invited to quote		Value of Offer excluding VAT	Regret letter sent
Date quotations opened		Number of quotations received	
Quotations opened by	Print name (1)		
	Signature (1)		
	Print name (2)		
	Signature (2)		
Award decision and approval - successful supplier and reasons			
Requisition/order number			
Award agreed		Budget holder	Supplies Manager
Print name			
Signature			
Date			

**Standing Financial Instructions Attachment 6
Budget Virement Request Form**

Please arrange to transfer budget from my service area as detailed below:

Value: £ _____

From financial code (manager transferring budget out – A):

ANNAA

AANN

To financial code (manager receiving budget - B):

ANNAA

AANN

Please authorise and forward to your business accountant.

Authorisation

To be signed by Service Director/Head of Clinical Support Services (or nominated deputy)

A - Position / Title: _____

Signature: _____ Date: _____

B- Position / Title: _____

Signature: _____ Date: _____

Business Accountant Signature: _____ Date: _____

Detailed description of the reason for the budget virement:

Finance Department use:

Date received: _____ Virement ref: VIRE _____

Actioned by: _____ Date: _____

Position / Title & signature

7. Standing Orders for the Board of Directors

7.1 Introduction and general information

- 7.1.1 The requirements placed on the Foundation Trust and its Board of Directors are set out in the Terms of Authorisation. The purpose of the Board Standing Orders is to ensure that the highest standards of corporate governance and conduct are achieved in the Board and throughout the organisation.
- 7.1.2 The Board of Directors are 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.
- 7.1.3 The Foundation Trust is governed by statute, mainly the NHS Act 2006 and the Health and Social Care Act 2012. In addition the National Health Service Act 1977 applies. The statutory functions conferred on the Foundation Trust are conferred by this legislation.
- 7.1.4 The business of the Foundation Trust is to be managed by the Board of Directors who shall exercise all the powers of the Foundation Trust, subject to any contrary provisions of the 2006 Act as given effect by the constitution.
- 7.1.5 All business shall be conducted in the name of the Trust.
- 7.1.6 The Board shall at all times seek to comply with the NHS Foundation Trust Code of Governance.⁵

7.2 Chair's Responsibility

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

7.3 Commitments

- 7.3.1 The Accounting Officer has responsibility to see that appropriate advice is tendered to the Board of Directors and the Council of Governors on all matters of financial propriety and regularity and more broadly, as to all considerations of prudent and economical administration, efficiency and effectiveness.
- 7.3.2 The Accounting Officer will determine how and in what terms the advice should be tendered, and whether in a particular case to make specific reference to their duty as Accounting Officer to justify, to the Public Accounts Committee, transactions for which they are accountable.
- 7.3.3 The Board of Directors and the Council of Governors of the Foundation Trust should act in accordance with the requirements of propriety and regularity. If the Board of Directors or Council of Governors or the Chair is contemplating a course of action involving a transaction which the Accounting Officer considers would infringe these requirements they should set out in writing their objection to the proposal and the reasons for the objection. If the Board of Directors, Council of Governors or Chair decides to proceed the Accounting Officer should:
- Seek written instruction to take the action
 - Inform NHS Improvement (if possible prior to the decision).
- 7.3.4 If overruled the action must be complied with, but the objection and the instruction should be

⁵ The NHS Foundation Trust Code of Governance, Monitor (2014)
Corporate Governance Manual

communicated to the Foundation Trust external auditors and to NHS Improvement. Provided this procedure is followed the Public Accounts Committee can be expected to recognise that the Accounting Officer bears no personal responsibility for the transaction.

7.4 Suspension of Standing Orders

7.4.1 Except where this would contravene any statutory provision or any direction made by the Secretary of State or the rules relating to the quorum, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board of Directors are present (including at least one member who is an officer member of the Foundation Trust and one member who is not) and that at least two-thirds of those Directors present signify their agreement to such suspension.

7.4.2 The reason for the suspension shall be recorded in the Board's minutes.

7.4.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and members of the Board of Directors. No formal business may be transacted while Standing Orders are suspended.

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

7.5 Non-compliance with 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 Audit Committee and to the next formal meeting of the Board for action or ratification. All members of the Board of Directors and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.

7.6 Variation and Amendment of Standing Orders

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

- upon a notice of motion
- upon a recommendation of the Chair or Chief Executive included on the agenda for the meeting
- that two thirds of the members of the Board of Directors are present at the meeting where the variation or amendment is being discussed
- that at least half of the Foundation Trust's Non-Executive Board members vote in favour of the amendment
- providing that any variation or amendment does not contravene a statutory provision.

7.7 Corporate Trustee

7.7.1 As a body corporate the Foundation Trust has specific powers to contract in its own name and to act as a corporate trustee. The Directors shall appoint trustees to administer separately charitable funds received by the Trust and for which they are accountable to the Charity Commission.

7.7.2 The Foundation Trust also has a common law duty as a bailee for patients' property held by the Foundation Trust on behalf of patients.

7.8 Constitution

7.8.1 The Constitution as been incorporated into the Foundation Trust's Standing Orders.

7.8.2 The Foundation Trust shall secure that its Constitution is in accordance with any regulations made under Section 59 of the Act (Conduct of elections).

7.9 Compliance and Enforcement

7.9.1 The Foundation Trust shall comply with:

- any requirements imposed on it under the Act or any other enactment;
- the Conditions of the Authorisation/ Licence;

- the terms of its Constitution; and

- the terms of its contracts with bodies which commission the Foundation Trust to provide goods and services (including education and training, accommodation and other facilities) for the purposes of the health service in England.

7.9.2 The Foundation Trust shall comply with any guidance issued by NHS Improvement, unless NHS Improvement has agreed with the Foundation Trust that, in the particular circumstances, the Foundation Trust is not required to comply. A failure to comply may result in NHS Improvement taking enforcement action under Sections 52, 53 or 54 of the Act.

7.10 Governance

7.10.1 The Foundation Trust shall ensure the existence of appropriate arrangements to provide representative and comprehensive governance in accordance with the Act and to maintain the organisational capacity necessary to deliver the mandatory goods and services and mandatory education and training referred to in its Licence.

7.10.2 The Foundation Trust shall comply with the principles of best practice applicable to corporate governance in the NHS/health sector, with any relevant code of practice and with any guidance which may be issued by NHS Improvement.

7.11 The Board of Directors

7.11.1 Composition

7.11.1.1 The composition of the Board shall be:

A Non-Executive Chair

Not less than five but not more than six other Non-Executive Directors

Not less than four but not more than five Executive Directors including:

- The Chief Executive (who is the Accounting Officer)
- The Finance Director
- A registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984)
- A registered nurse or registered midwife.

7.11.2 Board appointments process

7.11.2.1 Chair and other Non-Executive Directors

The Chair and Non-Executive Directors are appointed (and removed) by the Council of Governors in accordance with paragraph 21 of the Trust's Constitution.

7.11.2.2 Chief Executive and other Executive Directors

In accordance with paragraph 23 of the Trust's Constitution the Non-Executive Directors shall appoint the Chief Executive, which appointment shall require the approval of the Council of

Governors. A committee consisting of the Chair, Chief Executive and the other Non-Executive Directors shall appoint (or remove) the other Executive Directors. A remuneration committee of the Board, comprising the Chair and Non-Executive Directors will determine the remuneration and terms of service of executive directors.

7.11.3 Deputy Chair

7.11.3.1 There will be a Deputy Chair of the Board of Directors. In accordance with paragraph 22 of the Trust's Constitution the Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-Executive Directors as a Deputy Chair.

7.11.3.2 Any Non-Executive Director so appointed may at any time resign from the office of Deputy Chair by giving notice in writing to the Chair. The Chair and Directors may thereupon appoint another member as Deputy Chair.

7.11.3.3 If the Chair is unable to discharge their office as Chair of the Foundation Trust the Deputy Chair of the Board of Directors shall be acting Chair of the Foundation Trust until a new Chair is appointed or the existing Chair resumes their duties, as the case may be; and references to the Chair in these Standing Orders shall, so long as there is no Chair able to perform those duties, be taken to include references to the Deputy Chair.

7.11.4 Deputy Chief Executive

In accordance with paragraph 23 of the Trust's Constitution the Board of Directors shall appoint one of the Executive Directors as Deputy Chief Executive.

7.11.5 Joint posts

Where more than one person is appointed jointly to a post then those persons may, with the approval of the Board, be appointed as an Executive Director jointly, and shall count as one person.

7.11.6 Terms of office

The term of office of each of the Directors shall be determined in accordance with paragraph 27 of the Trust's Constitution.

7.11.7 Division of responsibilities between Chair and Chief Executive

The NHS Improvement NHS Foundation Trust Code of Governance sets out the requirement for the division of responsibilities for the Chair and the Chief Executive to be set out in writing and approved by the Board of Directors on an annual basis.

7.12 Trust Secretary (Head of Corporate Affairs)

The Foundation Trust shall have a Secretary who may be an employee. The Board shall appoint (and remove) a Secretary in consultation with the Council of Governors.

The Secretary's functions shall include:

- acting as Secretary to the Council of Governors and the Board of Directors, and any committees
- summoning and attending all members meetings, meetings of the Council of Governors and the Board of Directors, and keeping the minutes of those meetings,
- keeping the register of members and other registers and books required by the Constitution to be kept
- having charge of the Foundation Trust's seal publishing to members in an appropriate form information which they should have about the Foundation Trust's affairs

- preparing (or ensuring the preparation of) and sending to the NHS Improvement and any other statutory body all returns which are required to be made.

7.13 Meetings of the Board of Directors

7.13.1 Proceedings of meetings

- 7.13.1.1 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.
- 7.13.1.2 The decision of the Chair of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and their interpretation of the Standing Orders and Standing Financial Instructions, at the meeting, shall be final.
- 7.13.1.3 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 Audit Committee and to the next formal meeting of the Board for action or ratification. All members of the Board of Directors and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.

7.13.2 Frequency

- 7.13.2.1 Ordinary meetings of the Board shall be held at regular intervals at such times and places as the Board may determine. The Secretary will publish the dates, times and locations of meetings of the Board in advance.
- 7.13.2.2 Meetings of the Board will be open to members of the public at least four times in every financial year unless the Board of Directors decides otherwise in relation to all or part of such meeting for reasons of commercial confidentiality or on other proper grounds. Other meetings of the Board may be held in private. The Chair may exclude any member of the public from the meeting if they are interfering with or preventing the proper conduct of the meeting.

7.13.3 Calling meetings

- 7.13.3.1 Meetings of the Board of Directors may be called by the Secretary, or by the Chair, or by four Directors who have given written notice to the Secretary specifying the business to be carried out as detailed in the Trust's Constitution. The Secretary shall send a written notice to all Directors as soon as possible after receipt of such a request (normally available to members at least three clear days before the meeting.) 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 Chair or four Directors, whichever is the case, shall call such a meeting.
- 7.13.3.2 Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give to all Directors at least fourteen days' written notice of the date and place of every meeting of the Board of Directors.
- 7.13.3.3 An agenda, copies of any agenda items and any supporting reports shall be sent to each Director so as to arrive with each Director normally no later than seven days in advance of each meeting. Minutes of the previous meeting will be circulated with these papers for approval and this will be a specific agenda item.
- 7.13.3.4 Before each meeting being held in public, the notice of the date, time and venue of the meeting

shall be publicised at least seven days in advance of the meeting.

7.13.4 Setting the agenda

7.13.4.1 There will be a formal schedule of matters specifically reserved for decision by the Board of Directors.

7.13.4.2 The Board of Directors may determine that certain matters shall appear on every agenda for a meeting of the Foundation Trust and shall be addressed prior to any other business being conducted. The Board of Directors may agree an annual cycle of business which will change from time to time and will be used to inform the agenda.

7.13.4.3 A Director desiring a matter to be included on the agenda shall make their request to the Chair and the Secretary at least 10 days in advance of the meeting. Requests made less than 10 days before a meeting may be included at the discretion of the Chair.

7.13.5 Chairing the meeting

The Chair of the Foundation Trust shall normally chair the meeting. In the absence of the Chair then the Deputy Chair will chair the meeting. If both are incapacitated or unable to attend a properly called meeting of the Board, then the Directors at the meeting will nominate a Non-Executive Director chair for the duration of the meeting.

7.13.6 Reports from Executive Directors

At any meeting a Director may ask any question through the Chair without notice on any report by an Executive Director, or other officer of the Trust, after that report has been received by or while such report is under consideration by the Board at the meeting. The Chair may, in its absolute discretion, reject any question from any Director if in the opinion of the Chair the question is substantially the same and relates to the same subject matter as a question which has already been put to that meeting or a previous meeting.

7.13.7 Motions

7.13.7.1 Motions with notice

Subject to Standing Order 7.13.7.3, a motion may only be submitted by Directors and must be received by the Secretary in writing at least 10 days prior to the meeting at which it is proposed to be considered, together with any relevant supporting papers. For the purposes of this Standing Order, receipt of any such motions via electronic means is acceptable. All motions received by the Secretary will be acknowledged by the Secretary in writing to the Directors who have signed or transmitted the same.

7.13.7.2 Scope

7.13.7.2.1 Motions may only be about matters for which the Board of Directors has a responsibility or which affect the services provided by the Foundation Trust.

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

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

- An amendment to the motion

- The adjournment of the discussion or the meeting
- That the meeting proceeds 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 director who has not previously taken part in the debate.*

7.13.7.2.4 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 debate and who is eligible to vote.

7.13.7.3 Motions without notice

The following motions may be moved at any meeting without notice:

- in relation to the accuracy of the minutes of the previous meeting
- to change the order of business in the agenda for the meeting
- to refer a matter discussed at a meeting to an appropriate body or individual
- to appoint a working group arising from an item on the agenda for or the meeting
- to receive reports or adopt recommendations made by the Board
- to withdraw a motion to amend a motion to proceed to the next business on the agenda
- that the question be now put
- to adjourn a debate to adjourn a meeting to suspend a particular Standing Order contained within these Standing Order (provided that any Standing Order may only be suspended if at least one half of the aggregate number of Directors are present at the meeting in question and provided also that the Standing Order in question may only be suspended for the duration of the meeting in question)
- to exclude the public and press from the meeting in question
- (the motion shall be “To exclude the press and public from the remainder of the meeting, owing to the confidential nature of the business to be transacted”)
- to not hear further from a Director or to exclude them from the meeting in question (if a Director persistently disregards the ruling of the Chair or behaves improperly or offensively or deliberately obstructs business, the Chair, in its absolute discretion, may move that the Director’s question be not heard further at the meeting in question. If seconded, the motion will be voted on without discussion. If the Director continues to behave improperly after such a motion is carried, the Chair may move that either the Director leaves the meeting room or that the meeting in question is adjourned for a specified period. If seconded, the motion will be voted on without discussion) to give the consent of the Council/Board to any matter where its consent is required pursuant to the Constitution.

7.13.7.4 Urgent motions and agenda items

Urgent motions or agenda items may only be submitted by a Director and must be received by the Secretary in writing before the commencement of the meeting in question. The Chair shall decide whether the motion or item in question should be tabled.

7.13.7.5 Withdrawal of motion or amendment

If a motion, notice of which is specified on the agenda, is not moved either by the Directors who has given notice of the motion, or by another Director nominated on behalf of that Director, it shall be deemed to be abandoned and shall not be moved without fresh notice.

7.13.7.6 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 six calendar months shall bear the signature of the Directors who gives it and also the signature of three other Directors. When any such motion has been disposed of by the Trust, it shall not be appropriate for any director other than the Chair to propose a motion to the same effect within six months; however the Chair may do so if they consider it appropriate.

7.13.8 Chair's ruling

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

7.13.9 Voting

7.13.9.1 All questions put to the vote shall, at the discretion of the Chair, be decided by a show of hands. A paper ballot may be used if a majority of the Directors present so request.

7.13.9.2 In case of an equality of votes the Chair shall have a second and casting vote. No resolution of the Board of Directors shall be passed if it is opposed by all of the Non- Executive Directors present or by all of the Executive Directors present.

7.13.9.3 If at least one third of the Board members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot). If a Board member so requests, their vote shall be recorded by name.

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

7.13.9.5 An officer who has been appointed formally by the Board to act up for an Executive Director during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director. An officer attending the Board to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An officer's status when attending the meeting shall be recorded in the minutes.

7.13.9.6 Where an Executive Director post is shared by more than one person: Each person shall be entitled to attend meetings of the Board. Each of those persons shall be eligible to vote in the case of agreement between them. In the case of disagreement between them no vote should be cast. The presence of those persons shall count as one person.

7.13.10 Attendance

7.13.10.1 The Board of Directors may agree that 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.

7.13.10.2 Directors who are unable to attend a meeting shall notify the Secretary in writing in advance of the meeting in question so that their apologies may be submitted.

7.13.11 Quorum

7.13.11.1 Five Directors including not less than two Executive Directors (one of whom must be the Chief

Executive or the Deputy Chief Executive) and not less than three Non- Executive Directors (one of whom must be the Chair or the Deputy Chair of the Board of Directors, or other nominated Non-Executive Director in accordance with Standing Order 7.13.5) shall form a quorum.

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

7.13.11.3 If a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of declaration of a conflict of interest, they 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 minute of the meeting. The meeting must then proceed to the next business.

7.13.12 Speaking

This Standing Order applies to all forms of speech/debate by Directors of the Foundation Trust and the public in relation to the motion or question under discussion at a meeting.

7.13.13 Content and Length of Speeches

Any approval to speak must be given by the Chair. Speeches must be directed to the matter, motion or question under discussion or to a point of order. In the interests of time the Chair may, in its absolute discretion, limit the number replies, questions or speeches which are heard at any one meeting.

7.13.14 when a person may speak again

7.13.14.1 At the Chair's discretion, a person who has already spoken on a matter at a meeting may not speak again at that meeting in respect of the same matter, except:

- in exercise of a right of reply
- on a point of order.

7.13.14.2 Members of the Foundation Trust or members of the public observing the meeting may only speak if invited to do so by the Chair.

7.13.15 Minutes

7.13.15.1 Minutes of every meeting of the Board of Directors shall be kept. 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.

7.13.15.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. The signed minutes will be conclusive evidence of the events of the meeting. Any amendment to the minutes shall be agreed and recorded at the next meeting.

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

7.13.16 Record of attendance

The names of the directors present at the meeting shall be recorded in the minutes. The names of those in attendance at the meeting shall also be recorded.

7.14 Amendments to Standing Orders

These Standing Orders may only be amended following Board approval.

7.15 Dispute between the Board of Directors and the Council of Governors

A policy will be in place for use in the event of any unresolved dispute between the Board of Directors and the Council of Governors.

7.16 Delegation

7.16.1 Subject to the scheme of reservation and delegation, and such directions as may be given by statute, the independent regulator or the Secretary of State, the Board may make arrangements for the exercise, on behalf of the Foundation Trust, of any of its functions by a committee or subcommittee, or by a Director or an officer of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.

7.16.2 This includes the arrangements in place for conducting mental health panels under the terms of the Mental Health Act. (See also Table A, Delegated Authority, paragraph 31).

7.16.3 S16B of the NHS Act 1977 as amended allows for regulations to provide for the functions of Trusts to be carried out for the Trust by third parties.

7.16.4 Where a function is delegated by these regulations to another NHS body, the Trust has responsibility to ensure that the proper delegation is in place. In other situations i.e. delegation to committees, subcommittees or officers, the Trust retains full responsibility.

7.17 Emergency powers

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

7.18 Delegation to committees

The Board shall agree from time to time to the delegation of executive powers to be exercised by committees or subcommittees, 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, and incorporated within this corporate governance manual and/or integrated governance framework. No executive powers may be delegated by a committee to a sub-committee without express authority by the Board.

7.19 Statutory committees

In accordance with the Foundation Trust's constitution:

The Foundation Trust shall establish a committee of non-executive directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate. The Board of Directors shall appoint a remuneration committee of the Chair and other non-executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Executive Directors.

7.20 Other committees/subcommittees

In addition to the statutory requirements the Board of Directors may determine other committees as required for the conduct of their business. Where committees are authorised to establish subcommittees they may not delegate executive powers to the subcommittee unless expressly authorised by the Board of Directors.

7.21 Delegation to officers

- 7.21.1 Those functions of the Foundation Trust which have not been retained as reserved by the Board or delegated to an executive committee or subcommittee shall be exercised on behalf of the Board by the Chief Executive. The Chief Executive shall determine which functions they will perform personally and shall nominate officers to undertake the remaining functions for which they will still retain accountability to the Board.
- 7.21.2 The Chief Executive shall prepare a scheme of reservation and delegation identifying proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the scheme of reservation and delegation which shall be considered and approved by the Board as indicated above.
- 7.21.3 Nothing in the scheme of reservation and delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance or of any other Executive Director to provide information and advise the Board in accordance with any statutory requirements. Outside these statutory requirements the roles of the Director of Finance shall be accountable to the Chief Executive for operational matters.
- 7.21.4 The arrangements made by the Board as set out in the scheme of reservation and delegation shall have effect as if incorporated in these Standing Orders.

7.22 Confidentiality

- 7.22.1 A member of the Board or a committee of the Board shall not disclose a matter dealt with by, or brought before, the Board/committee without its permission or until the committee shall have reported to the Board or shall otherwise have concluded on that matter.
- 7.22.2 A Director of the Trust or a member of a committee shall not disclose any matter dealt with by, the committee, notwithstanding that the matter has been reported or action has been concluded, if the Board or committee shall resolve that it is confidential.

7.23 Disclosure of interests

7.23.1 Material interests

- 7.23.1.1 Members of the Board of Directors shall disclose to the Board of Directors any material interests (as defined below) held by a Director, their spouse or partner, which shall be recorded by the Secretary in the register of interests of the Directors.
- 7.23.1.2 These details will be kept up to date by means of an annual review of the register in which any changes to interests declared during the preceding twelve months will be incorporated.
- 7.23.1.3 A material interest is
- any interest (excluding a holding of shares in a company whose shares are listed on any public exchange where the holding is less than 2% of the total shares in issue) or position held by a Director in any firm, company or business which has or is likely to have a trading or commercial relationship with the Foundation Trust
 - any interest in an organisation providing health and social care services to the National Health Service
 - a position of authority in a charity or voluntary organisation in the field of health and social care any connection with any organisation, entity or company considering entering into a

financial arrangement with the Foundation Trust including but not limited to lenders or banks.

7.23.1.4 Any Director who has an interest in a matter to be considered by the Board of Directors (whether because the matter involves a firm, company, business or organisation in which the Director or his spouse or partner has a material interest or otherwise) shall declare such interest to the Board of Directors and:

- shall withdraw from the meeting and play no part in the relevant discussion or decision; and
- shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- Details of any such interest shall be recorded in the register of interests of the Directors.

7.23.1.5 Any Director who fails to disclose any interest or material interest required to be disclosed under these provisions must permanently vacate their office if required to do so by a majority of the remaining Directors and (in the case of a non-executive Director) by a majority of the Council of Governors.

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

7.23.2 Pecuniary interests

7.23.2.1 The following definition of terms is to be used in interpreting this Standing Order: "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse)

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

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

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

7.23.2.3 Any Director who has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board of Directors at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter of vote on any question with respect to it.

7.23.2.4 The Board of Directors may exclude the Chair or a member of the Board from a meeting while any contract, proposed contract or other matter in which they have a pecuniary interest is under consideration.

7.23.2.5 Any remuneration, compensation or allowance payable to the Chair or a Director shall not be treated as a pecuniary interest for the purpose of this Standing Order.

7.23.2.6 This Standing Order applies to a committee or subcommittee and to a joint committee or

subcommittee as it applies to the Foundation Trust and applies to a member of any such committee or subcommittee (whether or not they are also a member of the Foundation Trust) as it applies to a Director of the Foundation Trust.

7.23.3 Exception to Pecuniary interests

A person shall not be regarded as having a pecuniary interest in any contract if: neither they or any person connected with them has any beneficial interest in the securities of a company of which they or such person appears as a member, or any interest that they or any person connected with them may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in relation to considering or voting on that contract, or those securities of any company in which they (or any person connected with them) has a beneficial interest do not exceed two per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less. However the person shall nevertheless be obliged to disclose/declare their interests in accordance with Standing Order 7.23.1.

7.23.4 Publication of declared interests in Annual Report

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

7.24 Co-operation with Others

7.24.1 In exercising its functions the Foundation Trust shall co-operate with NHS bodies and local authorities, the Care Quality Commission and other organisations as defined by NHS Improvement.

7.24.2 The Foundation Trust shall deal with NHS Improvement in an open and co-operative manner and shall promptly notify NHS Improvement of anything relating to the Foundation Trust of which NHS Improvement would reasonably expect prompt notice, including, without prejudice to the foregoing generality, any anticipated failure or anticipated prospect of failure on the part of the Foundation Trust to meet its obligations under this authorisation or any financial or performance thresholds which NHS Improvement may specify from time to time.

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

7.24.4 The Chair, Chief Executive or any other person giving information to Parliament or to a Member of Parliament on behalf of the Foundation Trust shall ensure that they comply with the standards expected of Ministers of the Crown with regard to openness of dealings, the giving of accurate and truthful information and the correction of any inadvertent error at the earliest opportunity. Any question submitted to the Foundation Trust by a Member of Parliament shall be responded to by the Foundation Trust within the same timescale as that expected of Ministers with respect to Parliamentary questions.

7.25 Entry and Inspection of Premises

The Foundation Trust shall allow NHS Improvement, any member, officer or member of staff of the regulator, and any agent acting on behalf of the regulator, to enter and inspect premises owned or controlled by the Foundation Trust.

7.26 Seal and Signing of Documents

The Foundation Trust is to have a seal. This shall not be affixed except under the authority of the Board of Directors.

7.26.1 Custody of the Seal

The common seal of the Foundation Trust shall be kept by the Head of Corporate Affairs in a secure place.

7.26.2 Requirements to Seal

7.26.2.1 It is a legal requirement to place any property transactions e.g. purchase, sale, lease, under seal. Other contracts/documentation should be approved by an authorised signatory 'under hand' i.e. signed.

7.26.2.2 Before any building, engineering, property or capital document is sealed it must be approved and signed by the Director of Finance (or an officer nominated by them) and authorised and countersigned by the Chief Executive (or an officer nominated by them who shall not be within the originating division or department).

7.26.3 Register of Sealing

7.26.3.1 The Chief Executive shall keep a register in which they, or the Head of Corporate Affairs as authorised by them, shall enter a record of the sealing of every document. The Register of Sealing will be approved by the Board of Directors on an annual basis.

7.27 Signature of Documents

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

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

7.28 Healthcare Targets, Standards and Clinical Quality

7.28.1 The Foundation Trust shall comply with statements of standards in relation to the provision of health care published by the Secretary of State under Section 46 of the Health and Social Care (Community Health and Standards) Act 2003 (as amended).

The Licence requires the Foundation Trust to comply with material healthcare targets and standards. NHS Improvement does not directly collect information on performance against these targets. That is the role of the Care Quality Commission. NHS Improvement will expect Foundation Trusts to self-certify achievement of core national targets.

Healthcare Standards – the Foundation Trust shall put and keep in place and comply with arrangements for the purpose of NHS Improvement and improving the quality of health care provided by and for the Trust. The Foundation Trust shall comply with any statements of standards with respect to security and risk management which the Secretary of State may issue.

7.28.2 Clinical quality is monitored primarily, but not exclusively, by the Care Quality Commission. NHS Improvement regards the Care Quality Commission, with its powers of review and investigation under the Act, as the appropriate body to look into any concerns about clinical failures. The Healthcare Commission must report to NHS Improvement if it finds 'significant failings' in the

healthcare provision or running of the Foundation Trust. The Care Quality Commission must also report to NHS Improvement any such failings of an organization or individual working on the Foundation Trust's behalf. In such a report the Care Quality Commission can recommend that NHS Improvement take special measures to remedy the failings.

7.29 Miscellaneous

It is the duty of the Chief Executive to ensure that existing Directors, officers and all new appointees are notified of and understand their responsibilities within the Standing Orders and Standing Financial Instructions. Updated copies shall be issued to staff designated by the Chief Executive and it is the responsibility of all staff to comply with these rules and regulations, which is freely available to view on the Foundation Trust's website. New designated officers shall be informed in writing and shall receive copies where appropriate in Standing Orders.

7.30 Documents having the standing of Standing Orders

Standing Financial Instructions and reservation of powers to the Board and delegation of powers shall have the effect as if incorporated into Standing Orders.

7.31 Review of Standing Orders

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

8 Code of Conduct for the Board of Directors⁶

Public service values must be at the heart of the National Health Service. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded, it must be accountable to Parliament for the services it provides and for the effective and economical use of taxpayers' money. There are three crucial public service values which must underpin the work of the health service:

- Accountability – everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
- Probity – there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
- Openness – there should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.

These values are included in the seven principles of public life as outlined by the Nolan Committee and which are also reflected in this version of the Code adopted by the Board of Directors:

- Selflessness – holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends
- Integrity – holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties
- Objectivity – in carrying out public business, including making public appointments, awarding contracts,

⁶ Based on Code of Conduct, Code of Accountability published by the Department of Health (originally published 1994, first revision 2002, second revision 2004) or collectively and should not take part in any activity in conflict with the objects or that might damage the reputation of the organisation.

or recommending individuals for rewards and benefits, holders of public office should make choices on merit

- Accountability – holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
- Openness – holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands
- Honesty – holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest
- Leadership – holders of public office should promote and support these principles by leadership and example.

8.1 General Principles

Public service values matter in the NHS and those who work in it have a duty to conduct NHS business with probity. They have a responsibility to respond to staff, patients and suppliers impartially, to achieve value for money from the public funds with which they are entrusted and to demonstrate high ethical standards of personal conduct.

The success of this Code depends on a vigorous and visible example from boards and the consequential influence on the behaviour of all those who work within the organisation. Boards have a clear responsibility for corporate standards of conduct and acceptance of the Code should inform and govern the decisions and conduct of all board directors. Board members should conduct themselves in a manner that does not damage or undermine the reputation of the organisation, or its staff individually.

8.2 Openness and Public Responsibilities

Health needs and patterns of provision of health care do not stand still. There should be a willingness to be open with the public, patients and with staff as the need for change emerges. It is a requirement that major changes are consulted upon before decisions are reached. Information supporting those decisions should be made available, in a way that is understandable, and positive responses should be given to reasonable requests for information and in accordance with the Freedom of Information Act 2000 (as amended).

NHS business should be conducted in a way that is socially responsible. As a large employer in the local community, NHS organisations should forge an open and positive relationship with the local community and should work with staff and partners to set out a vision for the organisation in line with the expectations of patients and the public. NHS organisations should demonstrate to the public that they are concerned with the wider health of the population including the impact of the organisation's activities on the environment. The confidentiality of personal and individual patient information must, of course, be respected at all times.

Board members must make decisions together and take joint responsibility for them. The extent to which any one board member or a small group of members is empowered to speak for or take action on behalf of the organisation or the board must (subject to any specific constitutional rules) be a matter for all members to decide together. Such decisions must be recorded.

8.3 Public Service Values in Management

It is unacceptable for the board of any NHS organisation, or any individual within the organisation for which the board is responsible, to ignore public service values in achieving results. Chairs and board directors have a duty to ensure that public funds are properly safeguarded and that at all times the board conducts its business as efficiently and effectively as possible. Proper stewardship of public monies requires value for money to be high on the agenda of all NHS boards.

Accounting, tendering and employment practices within the NHS must reflect the highest professional standards. Public statements and reports issued by the board should be clear, comprehensive and balanced, and should fully represent the facts. Annual and other key reports should be issued in good time to all individuals and groups in the community who have a legitimate interest in health issues to allow full consideration by those wishing to attend public meetings on local health issues.

8.4 Public Business and Private Gain

Chairs and board directors should act impartially and should not be influenced by social or business relationships. No one should use their public position to further their private interests. Where there is a potential for private interests to be material and relevant to NHS business, the relevant interests should be declared and recorded in the board minutes, and entered into a register which is available to the public. When a conflict of interest is established, the board director should withdraw and play no part in the relevant discussion or decision.

8.5 Hospitality and Other Expenditure

Board directors should set an example to their organisation in the use of public funds and the need for good value in incurring public expenditure. The use of NHS monies for hospitality and entertainment, including hospitality at conferences or seminars, should be carefully considered. All expenditure on these items should be capable of justification as reasonable in the light of the general practice in the public sector. NHS boards should be aware that expenditure on hospitality or entertainment is the responsibility of management and is open to be challenged by the internal and external auditors and those ill-considered actions can damage respect for the NHS in the eyes of the community.

8.6 Relations with Suppliers

NHS boards should have an explicit procedure for the declaration of hospitality and sponsorship offered by, for example, suppliers. Their authorisation should be carefully considered and the decision should be recorded. NHS boards should be aware of the risks in incurring obligations to suppliers at any stage of a contracting relationship. Suppliers should be selected on the basis of quality, suitability, reliability and value for money. Refer also to Standards for Business Conduct.

8.7 Staff

NHS boards should ensure that staff have a proper and widely publicised procedure for voicing complaints or concerns about maladministration, malpractice, breaches of this code and other concerns of an ethical nature. The board must establish a climate:

- that enables staff who have concerns to raise these reasonably and responsibly with the right parties;
- that gives a clear commitment that staff concerns will be taken seriously and investigated; and where there is an unequivocal guarantee that staff who raise concerns responsibly and reasonably will be protected against victimisation.

8.8 Compliance

Board directors should satisfy themselves that the actions of the board and its directors in conducting board business fully reflect the values in this Code and, as far as is reasonably practicable, that concerns expressed by staff or others are fully investigated and acted upon. All board directors are required, on appointment, to subscribe to the Code of Conduct.

9. Council of Governors' Code of Conduct (last reviewed April 2015)

9.1 Introduction

9.1.1 Constitution

The Council of Governors is constituted and operates in accordance with the requirements of the Constitution of the Foundation Trust.

9.1.2 Roles

Governors give their time and expertise to the Foundation Trust, working in a voluntary capacity. They have a key role in the appointment, reappointment, appraisal and remuneration of the Chair and of the Non-Executive Directors. They also decide on the appointment of the external auditors.

With the help of the Trust, governors engage with the constituencies that elected them or the bodies that appointed them, acting as a two-way channel of communication. Equipped with this knowledge, they offer feedback to the Board of Directors on the future strategic direction of the Foundation Trust.

Unlike Executive and Non-Executive Directors, including the Chair, Governors are not individually or collectively liable for the performance of the Foundation Trust. Therefore, governors are not involved in operational decision-making or any executive or managerial functions. Governors are responsible for holding Non-Executives to account for the performance of the Board of Directors and therefore seek and obtain relevant sources of assurance.

9.1.3 Accountability

Governors are accountable to the membership of the Foundation Trust or their appointing body for their conduct.

9.2. Values

Governors are expected to uphold the values of the NHS and the values of the Trust, specifically the 6 Cs. These are:

- Compassion
- Competence
- Communication
- Courage
- Care
- Commitment

9.3. Responsibilities

9.3.1 Governors are expected:

- a. to act in the best interests of the Trust, to commit to and actively support the NHS Foundation Trust's vision and values and to seek at all times to support the NHS Foundation Trust in its aims and priorities and ensure its needs and interests are foremost in decision-making;
- b. to abide by and uphold the policies of the Trust;
- c. to attend meetings of the Council of Governors and actively contribute to its working in order for it to fulfil its functions as defined in the Constitution and licence.
- d. to feedback to the members who elected them or the bodies which appointed them, the views of the Council, and providing evidence to the Council that those duties have been undertaken;
- e. to be involved in the work of the sub-committees and to attend meetings of those to which they are appointed;

- f. to send their apologies to the Corporate Affairs team in advance if they are unable to attend a meeting;
- g. to accept decisions that were properly made by a majority of the Council, even if they do not agree with them or were not present when they were made;
- h. to undertake appropriate training and development, as provided by the Trust;
- i. to keep themselves informed about the Trust by reading relevant information;
- j. to declare any possible conflict of interest (see 8 below);
- k. To act with discretion and care in respect of difficult and confidential issues and to maintain confidentiality with regard to information gained;
- l. to recognise that as a Governor that if I am a member of any trade union, political party or other organisation,, I will not be representing those organisations (or the views of those organisations) but will be representing the constituency that elected me, or the organisation that nominated me;
- m. To undergo a Disclosure and Barring service (DBS) check;
- n. To respect and treat with dignity and fairness fellow governors, the public, patients, relatives, carers, NHS staff and partners in other agencies;
- o. To seek to ensure that we are all inclusive.;
- p. To at all times comply with the Constitution, Standing Orders and Standing Financial Instructions of Cheshire and Wirral Partnership NHS Foundation Trust, and I will adhere to the guidelines set out within the Governors' Meeting Etiquette Policy;
- q. to not make, permit, or knowingly allow to be made any untrue or misleading statement relating to my own duties or the functions of Cheshire and Wirral Partnership NHS Foundation Trust;
- r. to seek to ensure that the best interests of the public, patients, carers and staff are upheld in decision-making and the decisions are not improperly influenced by gifts or inducements;
- s. Insofar as their duties allow, to support and assist the Accountable Officer (Chief Executive) of Cheshire and Wirral Partnership NHS Foundation Trust in their responsibility to answer to the Independent Regulator (NHS Improvement), commissioners and the public to fully and faithfully declare and explain the use of resources and the performance of the Trust.

9.4. Personal Conduct

9.4.1 Fit and proper person

It is a condition of the Trust's licence that each governor serving on the Council of Governors is a 'fit and proper person'.

In this Condition an unfit person is:

(a) an individual;

(i) who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged; or

(ii) who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it; or

(iii) who within the preceding five years has been convicted in the British

Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him; or

(iv) who is subject to an unexpired disqualification order made under the Company Directors' Disqualification Act 1986;

Governors must certify on appointment, and each year that they are/remain a fit and proper person. If circumstances change, so that a governor can no longer be regarded as a fit and proper person or if it comes to light that a governor is not a fit and proper person, they will be suspended from being a governor with immediate effect pending Chair's investigation (detailed below). Where it is confirmed that a governor is no longer a fit and proper person, their membership of the council of governors will be terminated with immediate effect.

Governors should:

- Comply with the provisions of the eligibility criteria for governors, set out within the Trust's Constitution paragraph 13 and Annex 6, throughout their term(s) of office. These include the above criteria to be a 'fit and proper person'.

9.5. The Nolan Principles

Governors are expected to comply with the 7 Nolan principles set out below:

(i) **Selflessness:** holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

(ii) **Integrity:** holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

(iii) **Objectivity:** in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

(iv) **Accountability:** holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(v) **Openness:** holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(vi) **Honesty:** holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

(vii) **Leadership:** holders of public office should promote and support these principles by leadership and example.

9.6. Representation

Governors represent the members who elected them or the bodies which appointed them. However, they are not delegates and should contribute to collective decision making after hearing the views of other members of the Council or the Board of Directors (as appropriate).

Governors should not seek to speak on behalf of bodies they may happen to belong to but which are not their appointing body.

9.7. Conflicts of Interest

All Governors are required to list all relevant interests which may reasonably be thought to influence their actions in the performance of their duties. It is the responsibility of the Governor to inform the Trust Secretary immediately in writing of any changes to their interests.

Governors should ensure that:

- any actual or potential conflicts of interest are made known to the Head of Corporate Affairs and/or the Chair as soon as they arise;
- if a matter in which they have a material interest is discussed, they take no part in the discussion;
- if a matter in which they have a material interest is put to the vote, they take no part in the voting.

9.8. Breaches of the Code of Conduct (policy for removal of a Governor)

a. Local resolution

If it is believed that a member of the Council of Governors has breached the Code of Conduct it will, in most circumstances, be preferable for discussion to take place with the Head of Corporate Affairs to agree local resolution to the issue.

If local resolution is not possible or ineffective, the matter should then be raised at the earliest opportunity either in writing or verbally with the Chair and/or the Lead Governor. The following process will then be followed in seeking to resolve any concerns, difficulties or disputes in a constructive way.

b. Chair's Investigation:

- The Chair, supported by the Head of Corporate Affairs, will investigate the matter raised. This will include discussion with the Lead Governor, other Governors and/or members of staff, as appropriate.
- The Chair will notify the Governor concerned in writing of the details of the alleged breach of the Code of Conduct. The communication will set out a timeframe in which the matter is to be addressed.
- During the investigation, the Chair will invite the Governor concerned to meet with him/her to discuss the matter. It may be considered appropriate to involve the Lead Governor, if agreed by all parties. The governor will also be permitted to be accompanied by another individual at this meeting. The Head of Corporate Affairs will record minutes of the meeting.
- If the Governor concerned does not accept an invitation from the Chair to meet and discuss the matter, the Chair will continue to complete his/her investigation considering all other information available.
- The outcome of the Chair's investigation will conclude, either:
 - no further action necessary, or
 - a letter explaining the breach and advice on future conduct is to be issued,or, if the governor concerned has committed a serious breach of the code of conduct, or acted in a manner detrimental to the interests of the Foundation Trust and it is considered that it is not in the best interest of the Foundation Trust for them to continue as a Governor,
 - recommend to the Council of Governors that the Governor concerned is removed from Office.
- The Chair will write to the Governor concerned confirming the outcome of his/her investigation within the previously stated timeframe.
- Where the Governor is in disagreement with the outcome, they may appeal the outcome of the investigation by setting out his/her reasons in writing to the Senior Independent Director or another independent assessor to be mutually agreed within 10 working days from receipt of the Chair's letter.
- The Senior Independent Director or Independent Assessor will conduct an independent investigation and report his/her findings to the Governor concerned, the Chair, the Lead Governor and the Head of Corporate Affairs.
- During the Senior Independent Director/ Independent Assessor's investigation, he/she will invite the Governor concerned to meet with him/her to discuss the matter. The Head of Corporate Affairs will record minutes of the meeting.
- The Senior Independent Director/ Independent Assessor will report on the outcome of their investigation to the Governor concerned, the Chair, the Lead Governor and the Head of Corporate Affairs.

- A decision on reporting the outcome of the investigation to the Council of Governors will be taken by the Senior Independent Director/ Independent Assessor on a case by case basis pending the action to be taken following the conclusion of the investigation.
- The Senior Independent Director/ Independent Assessor's decision will be final and the outcome will be based upon the options previously stated:
 - no further action necessary, or
 - a letter (explaining the breach and advice on future conduct) is to be issued, or, if the governor concerned has committed a serious breach of the code of conduct, or acted in a manner detrimental to the interests of the Foundation Trust and it is considered that it is not in the best interest of the Foundation Trust for them to continue as a Governor,
 - recommend to the Council of Governors that the Governor concerned is removed from office.

c. Recommendation to the Council of Governors

If a recommendation for removal from office is made to the Council of Governors the following process will be followed:

- The Chair or Head of Corporate Affairs would convene an extra-ordinary meeting of the Council of Governors to be held in private. The Governor concerned would be excluded from this meeting but would be afforded the opportunity to provide a statement to the Council of Governors.
- The Council of Governors will consider the outcome of the Chair's investigation and if appealed, the outcome of the Senior Independent Director/ Independent Assessor's investigation and a vote on the recommendation will take place.
- Annex 6, paragraph 12 of the Trust's Constitution states:

'A Governor may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting, on the grounds that:

- they have committed a serious breach of the code of conduct, or
 - they have acted in a manner detrimental to the interests of the Foundation Trust, and
 - the Council of Governors considers that it is not in the best interest of the Foundation Trust for them to continue as a Governor.
- The outcome of the vote will be applied with immediate effect and the Governor will be informed of the outcome immediately. This will be followed up in writing.
 - The decision of the Council of Governors is final.

10 Code of Conduct for NHS Managers ⁷

10.1 Introduction

The Code of Conduct for NHS Managers sets out the standards of conduct expected of NHS Managers. It serves two purposes:

- to guide NHS managers and employing health bodies in the work they do and the decisions and choices they have to make
- to reassure the public that these important decisions are being made against a background of professional standards and accountability.

10.2 The Code

10.2.1 As an NHS manager, I will observe the following principles:

- make the care and safety of patients my first concern and act to protect them from risk; respect the public, patients, relatives, carers, NHS staff and partners in other agencies; be honest and act with integrity;
- accept responsibility for my own work and the proper performance of the people I manage; show my commitment to working as a team member by working with all my colleagues in the NHS and the wider community;
- take responsibility for my own learning and development.

10.2.2 This means in particular that I will:

- respect patient confidentiality;
- use the resources available to me in an effective, efficient and timely manner having proper regard to the best interests of the public and patients;
- be guided by the interests of the patients while ensuring a safe working environment;
- act to protect patients from risk by putting into practice appropriate support and disciplinary procedures for staff; and
- seek to ensure that anyone with a genuine concern is treated reasonably and fairly.

10.2.3 I will respect and treat with dignity and fairness, the public, patients, relatives, carers, NHS staff and partners in other agencies. In my capacity as a senior manager within the NHS I will seek to ensure that no one is unlawfully discriminated against because of their religion, belief, race, colour, gender, marital status, disability, sexual orientation, age, social and economic status or national origin.

I will also seek to ensure that:

- the public are properly informed and are able to influence services;
- patients are involved in and informed about their own care, their experience is valued, and they are involved in decisions;
- relatives and carers are, with the informed consent of patients, involved in the care of patients; partners in other agencies are invited to make their contribution to improving health and health services;

and NHS staff are:

- valued as colleagues;

⁷ Based on Code of Conduct for NHS Managers published by the Department of Health, 2002

- properly informed about the management of the NHS;
- given appropriate opportunities to take part in decision making.
- given all reasonable protection from harassment and bullying;
- provided with a safe working environment;
- helped to maintain and improve their knowledge and skills and achieve their potential; and
- helped to achieve a reasonable balance between their working and personal lives.

10.2.4 I will be honest and will act with integrity and probity at all times. I will not make, permit or knowingly allow to be made, any untrue or misleading statement relating to my own duties or the functions of my employer.

10.2.5 I will seek to ensure that:

- the best interests of the public and patients/clients are upheld in decision-making and that decisions are not improperly influenced by gifts or inducements;
- NHS resources are protected from fraud, corruption and bribery and that any incident of this kind is reported to the NHS Anti Fraud Services;
- judgements about colleagues (including appraisals and references) are consistent, fair and unbiased and are properly founded; and
- open and learning organisations are created in which concerns about people breaking the Code can be raised without fear.

10.2.6 I will accept responsibility for my own work and the proper performance of the people I manage. I will seek to ensure that those I manage accept that they are responsible for their actions to:

- the public and their representatives by providing a reasonable and reasoned explanation of the use of resources and performance;
- patients, relatives and carers by answering questions and complaints in an open, honest and well researched way and in a manner which provides a full explanation of what has happened, and of what will be done to deal with any poor performance and, where appropriate giving an apology; and
- NHS staff and partners in other agencies by explaining and justifying decisions on the use of resources and give due and proper consideration to suggestions for improving performance, the use of resources and service delivery.

10.2.7 I will support and assist the Accountable Officer of my organisation in his or her responsibility to answer to Parliament, Ministers, the Department of Health and the Independent Regulator of Foundation Trusts in terms of fully and faithfully declaring and explaining the use of resources and the performance of the local NHS in putting national policy into practice and delivering targets.

10.2.8 For the avoidance of doubt, nothing in paragraphs 10 of this Code requires or authorises an NHS manager to whom this Code applies to: make, commit or knowingly allow to be made any unlawful disclosure; make, permit or knowingly allow to be made any disclosure in breach of his or her duties and obligations to his or her employer, save as permitted by law.

10.2.9 If there is any conflict between the above duties and obligations and this Code, the former shall prevail.

10.2.10 I will show my commitment to working as a team by working to create an environment in which:

- teams of frontline staff are able to work together in the best interests of patients; leadership is encouraged and developed at all levels and in all staff groups; and

- the NHS plays its full part in community development.
- 10.2.11 I will take responsibility for my own learning and development. I will seek to:
- take full advantage of the opportunities provided;
 - keep up to date with best practice; and
 - share my learning and development with others.
- 10.2.12 I will also uphold the seven principles of public life as outlined by the Nolan Committee:
- Selflessness – holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends
 - Integrity – holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties
 - Objectivity – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit
 - Accountability – holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
 - Openness – holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands
 - Honesty – holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest
 - Leadership – holders of public office should promote and support these principles by leadership and example

10.3 Implementing the Code

- 10.3.1 The Code should be seen in a wider context that NHS managers must follow the ‘Nolan Principles on Conduct in Public Life’ (see paragraph 10.2.12 above), the ‘Corporate Governance Codes of Conduct and Accountability’, the ‘Standards of Business Conduct’, the ‘Code of Practice on Openness in the NHS’ and standards of good employment practice.
- 10.3.2 In addition many NHS managers come from professional backgrounds and must follow the code of conduct of their own professions as well as this Code.
- 10.3.3 In order to maintain consistent standards, the Trust will consider suitable measures to ensure that managers who are not their employees but who manage their staff or services; or manage units which are primarily providing services to their patients also observe the Code.
- 10.3.4 It is important to respect both the rights and responsibilities of managers. To help managers to carry out the requirements of the Code, the Trust will provide reasonable learning and development opportunities and seek to establish and maintain an organisational culture that values the role of managers. NHS managers have the right to be:
- treated with respect and not be unlawfully discriminated against for any reason;
 - given clear, achievable targets; judged consistently and fairly through appraisal;
 - given reasonable assistance to maintain and improve their knowledge and skills and achieve their potential through learning and development; and
 - reasonably protected from harassment and bullying and helped to achieve a reasonable balance between their working and personal lives.

10.4 Breaching the Code

10.4.1 Alleged breaches of the Code of Conduct will be promptly considered and fairly and reasonably investigated. Individuals must be held to account for their own performance, responsibilities and conduct where employers form a reasonable and genuinely held judgement that the allegations have foundation. Investigators should consider whether there are wider system failures and organisational issues that have contributed to the problems. In order to learn from and prevent future breaches of the Code, it is necessary to look at the wider causes of alleged breaches.

10.4.2 Local employers should decide whether to investigate alleged breaches informally or under the terms of local disciplinary procedures. It is essential however that both forms of investigation should be, and be seen to be, reasonable, fair and impartial. If Chief Executives or Directors are to be investigated, the employing authority should use individuals who are employed elsewhere to conduct the investigation. The NHS Confederation, the Institute of Healthcare Management and the Healthcare Financial Management Association are among the organisations who maintain lists of people who are willing to undertake such a role.

10.5 Application of the Code

10.5.1 The Code codifies and articulates certain important contractual obligations that apply to everyone holding management positions. These include Chief Executives and Directors who as part of their duties are personally accountable for achieving high quality patient care.

10.5.2 The Trust will:

- incorporate the Code into the employment contracts of Chief Executives and Directors and include the Code in the employment contracts of new appointments to that group identify any other senior managerial posts, i.e. with levels of responsibility and accountability similar to those of Director-level posts, to which they consider the Code should apply,
- include the Code in new employment contracts as appropriate incorporate the Code into the employment contracts of existing post holders as appropriate.
- Investigate alleged breaches of the Code by those to whom the Code applies promptly and reasonably as at paragraphs four to five
- provide a supportive environment to managers (see paragraph 10.3.4 above).

See also Standards of Business Conduct for NHS Staff, included in this manual.

11 Standards of Business Conduct for NHS Staff

Introduction

These guidelines are based on recommendations by the NHS Management Executive to assist NHS employers and staff in maintaining strict ethical standards in the conduct of NHS business. They cover:

- The standards of conduct expected of all NHS staff where their private interests may conflict with their public duties; and the steps which NHS employers should take to safeguard themselves and the NHS against conflict of interest
- Action checklist for NHS Managers - *Part C* (omitted from this extract) Short guide for staff - *Part D*
- Ethical Code of the Institute of Purchasing and Supply (IPS) (reproduced courtesy of IPS) - *Part E*.

The guidance is in two parts:

Part A - brief summary of the main provisions of the Bribery Act 2010

Part B - general policy guidelines

Part C – Short guide for staff

Part D - Ethical Code of the Chartered Institute of Purchasing and Supply (CIPS).

Part A

Bribery Act 2010

Bribery is generally defined as an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage, on behalf of oneself or another.

The Act repeals the UK's existing anti-corruption legislation – the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery – and provides an updated and extended framework of offences to cover bribery both in the UK and abroad

Bribery is a criminal offence. Cheshire and Wirral Partnership NHS Foundation Trust does not, and will not, pay bribes or offer improper inducements to anyone for any purpose; nor do we or will we, accept bribes or improper inducements. This approach applies to everyone who works for us, or with us. To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in, or otherwise encourage, bribery.

Proactively combatting bribery has clear benefits for this Trust and the wider NHS. It helps prevent:

- adverse damage to or criticism of the organisation's reputation and funding;
- the potential diversion and/or loss of resources from NHS care;
- unforeseen and unbudgeted costs of investigations and/or defence of any legal action; and,
- a negative impact on patient/stakeholder perceptions.

Part B

General policy guidelines

Responsibility of the Trust

The Trust is responsible for ensuring that these guidelines are brought to the attention of all employees; also that machinery is put in place for ensuring that they are effectively implemented.

Responsibility of NHS staff

It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties. This primary responsibility applies to *all NHS staff*, i.e. those who commit NHS resources directly (e.g. by the ordering of goods) or those who do so indirectly (e.g. by the prescribing of medicines). A further example would be staff who may have an interest in a private nursing home and who are involved with the discharge of patients to residential facilities.

Guiding principle in conduct of public business

It is a long established principle that public sector bodies, which include the NHS, must be impartial and honest in the conduct of their business, and that their employees should remain beyond suspicion.

It is also an offence under the Bribery Act 2010 for an employee corruptly to accept any inducement or reward for doing, or refraining from doing anything, in his or her official capacity, or corruptly showing favour, or disfavour, in the handling of contracts (see Part A).

A breach of the provisions of these Acts renders employees liable to prosecution and may also lead to loss of their employment and superannuation rights in the NHS.

NHS staff are expected to: ensure that the interest of patients remains paramount at all times; be impartial and honest in the conduct of their official business; use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

It is also the responsibility of staff to ensure that they do not: abuse their official position for personal gain or to benefit their family or friends; seek to advantage or further private business or other interests, in the course of their official duties.

Implementing the guiding principles

Casual gifts

Casual gifts offered by contractors or others, e.g. at Christmas time, may not be in any way connected with the performance of duties so as to constitute an offence under the Bribery Act 2010. Such gifts should nevertheless be politely but firmly declined.

Any gifts received from or offer of gifts by a contractor or potential contractor must be reported immediately to the Chief Executive. In the context of these instructions contractor means any supplier of goods and/or services to the Trust. Exception may be made only for items of a trivial nature; otherwise staff should decline all offers of gifts.

Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or their relatives, need not necessarily be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

Hospitality

Modest hospitality provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer.

Visits to contractor or potential contractors or to another site to inspect their installations must be made at the Trust's expense and not the contractor's. Exception to this rule may be granted by the Chief Executive where reasonable. Otherwise only minimal hospitality should be accepted from a contractor or potential contractor and an immediate explanation must be given to the Chief Executive if a breach of the rules occurs. As with gifts, unless of a minor nature, hospitality and entertainment should be declined.

Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they should seek advice from their line manager.

Declaration and conflicts of interests

All employees must ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

All Board members and employees are required to declare when they, or their close relatives / associates, have a financial interest in any business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), activity or pursuit which might compete for a contract for the supply of goods or services to the Trust. This declaration should be made either on starting employment or on acquisition of the interest. The code of conduct declaration form for employees should be completed and returned for entry into a register of interests. Board members equally have a duty under Standing Orders to declare interests and an annual update is routinely undertaken on a separate form and made available to the public.

One particular area of potential conflict of interest, which may directly affect patients, is when NHS staff hold a self-beneficial interest in private care homes or hostels. While it is for staff to declare such interests to their employing authority, the employing authority has a responsibility to introduce whatever measures it considers necessary to ensure that its interests and those of patients are adequately safeguarded. This may for example take the form of a contractual obligation on staff to declare any such interests. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.

In determining what needs to be declared, employers and employees will wish to be guided by the principles set out in 'Principles of conduct in the NHS' above.

The Trust will: ensure that staff are aware of their responsibility to declare relevant interests (perhaps by including a clause to this effect in staff contracts); and keep a register of all such interests and make them available for inspection by the public develop a local policy, in consultation with staff and local staff interests, for implementing this guidance. This may include the disciplinary action to be taken if an employee fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self-benefit, or that of family or friends. Disciplinary action, which could lead to dismissal, may be taken if an employee or Board member fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self-benefit, or that of family or friends. A criminal action may be instigated under section 4 of the Fraud Act 2006.

The annual performance review of each member of staff should include an opportunity to declare or update any relevant interests.

Below are some examples of situations that could be encountered by all employees and how they should be dealt with:

Offer from a company to provide training for staff

The Trust should be careful to ensure that staff are not pressurised by sponsors of training to alter their own activity to accommodate sponsors' wishes, particularly where these are not backed up by appropriate evidence. Training provided by industry may be above board if it is unbiased, has mutual benefit for both the NHS and the sponsoring company and is evidence based and the hospitality is appropriate. However, participants should assess whether they may be influenced unduly and also bear in mind what benefits the

company might derive (e.g. exposure to the NHS, professional contacts, potential allies to use later, names of who to influence – often without the participants realising).

A manufacturer of continence equipment offers to sponsor a urology nurse post in an NHS Trust

The Trust should not accept the sponsorship if it would require the urology nurse to recommend the sponsor's equipment in preference to other clinically appropriate appliances, nor if it requires the Trust to recommend patients to use a particular dispensing service or withhold information about other products. Existing contracts containing any such provisions should, where possible, be urgently renegotiated.

A manufacturer of a particular type of Nicotine Replacement Therapy offers to provide their product at a reduced rate

This arrangement is acceptable provided that there is a clear clinical view that these products are appropriate to particular patients and there is no obligation to also prescribe these products to other patients for whom an alternative product would be at least as beneficial.

A pharmaceutical company offers to provide starter packs at a discounted price

This type of sponsorship is acceptable, but should always be declared in order to avoid any suspicion that subsequent prescribing might be inappropriate and linked to the provision of starter packs.

High tech home health care provider offers to supply equipment at a reduced rate in return for business linked to a specific product

Contract negotiators should advise the company that any contract will not prejudice the provision of the most appropriate service to patients, and will not bear any relation to other contracts.

A manufacturer offers to pay the travelling costs or accommodation costs for clinicians invited to a conference to view medical products

Only clinicians with a specific interest in the products should attend and the travel costs incurred should be paid for by the Trust, unless the Chief Executive/Director of Finance gives approval for the potential supplier to take responsibility for the costs. Such decisions should be taken at least at Director of Finance level.

Preferential treatment in private transactions

Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of their NHS employer. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interest, on behalf of all staff - for example, NHS staff benefits schemes.)

Contracts

All staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign purchase orders, or place contracts for goods, materials or services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS), reproduced at Part D.

Where there is a potential conflict of interest in relation to the award of a contract you should inform a senior member of staff / line manager after following the relevant reporting protocol of completing the Declaration of Interest form, which in turn will be entered into the Register of Interests.

Favouritism in awarding contracts

Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. This means that: no private, public or voluntary organisation or company which may bid for NHS business should be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors, whether or not there is a relationship between them and the NHS employer, such as a long-running series of previous contracts each new contract should be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.

The Trust will ensure that no special favour is shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant managerial capacity. Contracts may be awarded to such businesses where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

Warnings to potential contractors

NHS employers will wish to ensure that all invitations to potential contractors to tender for NHS business include a notice warning tenderers of the consequences of engaging in any corrupt practices involving employees of public bodies.

Outside employment

NHS employees are advised not to engage in outside employment which may conflict with their NHS work, or be detrimental to it. They are advised to tell the Trust if they think they may be risking a conflict of interest in this area: the Trust will be responsible for judging whether the interests of patients could be harmed, in line with the principles in 'Implementing the guiding principles' above.

Second employments must also be considered carefully. These activities should neither take precedence over an officer's main employment with the Trust nor should engagement in these activities in any way affect an officer's efficient discharge of duties under his or her main employment. Where an officer has reason to believe that this or her second employer has any business dealings whatsoever with the Trust the fact must be reported to the Chief Executive.

For full time staff, the main employment of officers necessarily takes precedence over any other paid or voluntary activities undertaken. Employees should not engage in any second or spare time job which affects in any way their performance or discharge of their duties with this Trust.

Second or spare time jobs are permissible without the need for registration or authorisation where the activity is not with a supplier or contractor to the Trust or not with any other NHS organisation.

Extra jobs, whether regular or occasional, should not be with a supplier to the Trust unless specifically approved by the Chief Executive who will keep a register detailing the personnel, the activity, the employer, and any other such details as deemed desirable.

Details of such situations must be submitted as and when these arise and confirmed on an annual basis.

Particular care must be taken to disclose any employment, even if only on a temporary or supply basis, with another NHS or private health care body.

Private practice

Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in NHS hospitals subject to the conditions outlined in the handbook (A Guide to the Management of Private Practice in the NHS". (See also PM(79)11). Consultants who have signed new contracts with Trusts will be subject to the terms applying to private practice in those contracts.

Other grades may undertake private practice or work for outside agencies, providing they do not do so within the time they are contracted to the NHS, and they observe the conditions in the paragraph above. All hospital doctors are entitled to fees for other work outside their NHS contractual duties under "Category 2" (paragraph 37 of the TCS of Hospital Medical and Dental staff) e.g. examinations and reports for life

insurance purposes. Hospital doctors and dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours.

Career grade medical and dental staff employed by NHS Trusts may agree terms and conditions different from the National Terms and Conditions of Service.

Rewards for Initiative

The Trust will identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that it receives any rewards or benefits (such as royalties) in respect of work commissioned from third parties, or work carried out by their employees in the course of their NHS duties. Most IPR are protected by statute e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this, the Trust will build appropriate specifications and provisions into the contractual arrangements which they enter into *before* the work is commissioned, or begins. They should always seek legal advice if in any doubt in specific cases.

With regard to patents and inventions, in certain defined circumstances the Patents Act gives *employees a right* to obtain some reward for their efforts, and employers should see that this is affected. Other rewards may be given voluntarily to employees who within the course of their employment have produced innovative work of outstanding benefit to the NHS. Similar rewards should be voluntarily applied to other activities such as giving lectures and publishing books and articles.

In the case of collaborative research and evaluative exercises with manufacturers, NHS employers should see that they obtain a fair reward for the input they provide. If such an exercise involves additional work for an NHS employee outside that paid for by the NHS employer under his or her contract of employment, arrangements should be made for some share of any rewards or benefits to be passed on to the employee(s) concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.

Commercial sponsorship for attendance at courses and conferences

Acceptance by staff of commercial sponsorship for attendance at relevant conferences and courses is acceptable, but only where the employee seeks permission in advance and the employer is satisfied that acceptance will not compromise purchasing decisions in any way.

On occasions when NHS employers consider it necessary for staff advising on the purchase of equipment to inspect such equipment in operation in other parts of the country (or exceptionally, overseas), employing authorities will themselves want to consider meeting the cost, so as to avoid putting in jeopardy the integrity of subsequent purchasing decisions.

Commercial sponsorship of posts - “linked deals”

Pharmaceutical companies, for example, may offer to sponsor, wholly or partially, a post for the Trust. The Trust will not enter into such arrangements, unless it has been made abundantly clear to the company concerned that the sponsorship will have no effect on purchasing decisions by the Trust. Where such sponsorship is accepted, monitoring arrangements will be established to ensure that purchasing decisions are not, in fact, being influenced by the sponsorship agreement.

Under no circumstances should employers agree to “linked deals” whereby sponsorship is linked to the purchase of particular products, or to supply from particular sources.

“Commercial in-confidence”

Staff should be particularly careful of using, or making public, internal information of a “commercial in-

confidence" nature, *particularly if its disclosure would prejudice the principle of a purchasing system based on fair competition. This principle applies whether private competitors or other NHS providers are concerned*, and whether or not disclosure is prompted by the expectation of personal gain (see the paragraphs above and Part D).

However, NHS employers should be careful about adopting a too restrictive view on this matter. It should certainly not be a cause of excessive secrecy on matters which are not strictly commercial per se. For example, the term "commercial in confidence" should not be taken to include information about service delivery and activity levels, which should be publicly available. Nor should it inhibit the free exchange of data for medical audit purposes, for example, subject to the normal rules governing patient confidentiality and data protection. In all circumstances the overriding consideration must be the best interests of patients.

Disciplinary action

Failure to follow the principles and the guidance in this Code may result in disciplinary action and possibly prosecution under the Bribery Act 2010

Officers should take action to report as soon as possible any instance where they feel the guidelines have been broken, accidentally or otherwise, by themselves or others. It should be emphasised that the crime occurs when any money, gift or consideration has been received and the recipient then shows favour or partiality to the donor. The presumption is that the money, gift or hospitality, etc. was received corruptly unless the employee – the recipient – can show otherwise. Prompt disclosure and registration are important acts to refuse the charge of corruption.

Part C

Short guide for staff

Do:

- make sure you understand the guidelines on standards of business conduct, and consult your line managers if you are not sure
- make sure you are not in a position where your private interests and NHS duties may conflict (3)
- declare to your employer any relevant interests. If in doubt, ask yourself: am I, or might I be, in a position where I (or my family/friends) could gain from the connection between my private interests and my employment? do I have access to information which could influence purchasing decisions? Could my outside interest be in any way detrimental to the NHS or to the patients' interests? Do I have any other reasons to think I may be risking a conflict of interest? If still unsure - declare it!
- adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way with the acquisition of goods and services
- seek your employer's permission before taking on outside work, if there is any question of it adversely affecting your NHS duties (special guidance applies to doctors)
- obtain your employer's permission before accepting any commercial sponsorship.

Do not:

- accept any gifts, inducements or inappropriate hospitality
- abuse your past or present official position to obtain preferential rates for private deals unfairly advantage one competitor over another or show favouritism in awarding contracts
- misuse or make available official "commercial in confidence" information.

If in doubt seek advice from the Head of Corporate Affairs on 01244 397469 or if you wish to report any concerns in relation to fraud or corruption contact the Trust's LCFS on 01244 364479, the Fraud and Corruption Reporting Line 0800 028 4060 or www.reportnhsfraud.nhs.uk.

Part D

Chartered Institute of Purchasing and Supply - Ethical Code (reproduced by kind permission of CIPS)

Introduction

The code set out below was approved by the CIPS Council on 11 March 2009 and is building on CIPS members.

- maintain the highest standard of integrity in all my business relationships
- reject any business practice which might reasonably be deemed improper
- never use my authority or position for my own personal gain
- enhance the proficiency and stature of the profession by acquiring and applying knowledge in the most appropriate way
- foster the highest standards of professional competence amongst those for whom I am responsible
- optimise the use of resources which I have influence over for the benefit of my organisation
- comply with both the letter and the intent of:
 - the law of countries in which I practise
 - agreed contractual obligations
 - CIPS guidance on professional practice
- declare any personal interest that might affect, or be seen by others to affect, my impartiality or decision making
- ensure that the information I give in the course of my work is accurate
- respect the confidentiality of information I receive and never use it for personal gain
- strive for genuine, fair and transparent competition
- not accept inducements or gifts, other than items of small value such as business diaries or calendars
- always declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision
- remain impartial in all business dealing and not be influenced by those with vested interests.

See also Code of Conduct for NHS Managers, included in this manual.

12 Standing Orders for the Council of Governors

These Standing Orders for the Practice and Procedures of the Council of Governors are the standing orders referred to in paragraph 15 of the Constitution. They may be amended in accordance with the procedure set out in procedure 13 below. If there is any conflict between these Standing Orders and the Constitution, the Constitution shall prevail.

Meetings

Meetings of the Council shall be held at regular intervals, at least four times per year, including the Annual Governors' Meeting, at such times and places as the Chair may determine. The Secretary will publish the dates, times and locations of meetings of the Council for the year 6 months in advance. Other, or emergency, meetings of the Council may be called in accordance with the Constitution.

Agendas and papers

An agenda, copies of any agenda items on notice and/or motions on notice to be considered at the relevant Meeting and any supporting papers shall be sent to each Governor so as to arrive with each Governor normally no later than 7 days in advance of each Meeting. Minutes of the previous Meeting will be circulated with these papers for approval and this will be a specific agenda item.

Reports from the executive directors

At any Meeting a Governor may ask any question through the Chair without notice on any report by an Executive Director, or other officer of the Foundation Trust, after that report has been received by or while such report is under consideration by the Council at the Meeting. Unless the Chair decides otherwise no statements will be made other than those which are strictly necessary to define any question posed and in any event no statements will be allowed to last longer than 3 minutes each. A Governor who has put such a question may also put one supplementary question if the supplementary question arises directly out of the reply given to the initial question. The Chair may, in its absolute discretion, reject any question from any Governor if in the opinion of the Chair the question is substantially the same and relates to the same subject matter as a question which has already been put to that Meeting or a previous Meeting. At the absolute discretion of the Chair, questions may, at any Meeting which is held in public, be asked of the Executive Directors present by Members of the Foundation Trust or any other members of the public present at the Meeting.

Agenda item on notice at meetings

Subject to the provisions of Standing Order 7, a Governor may ask for an Agenda item on Notice of:

- (a) the Chair;
- (b) another Governor;
- (c) an Executive Director of the Foundation Trust;
- (d) the chair of any sub-committee or working group of the Council.

Notice of agenda item

Notice of an Agenda item on Notice must be given in writing to the Secretary at least 14 days prior to the relevant Meeting. For the purposes of this Standing Order 7, receipt of any such Agenda item on Notice via electronic means is acceptable.

Response to an agenda item on notice

An answer to an Agenda item on Notice may take the form of:

- (a) a direct oral answer at the relevant Meeting (which may, where the desired information is in a publication of the Foundation Trust or other published work, take the form of a reference to that publication);
- (b) where the reply cannot conveniently be given orally at the relevant Meeting, a written answer which will be circulated as soon as reasonably practicable to the questioner and to the other Governors with the agenda for the next Meeting; or
- (c) a brief oral answer at the relevant Meeting supplemented by a written answer circulated as soon as reasonably practicable to the questioner and to the other Governors with the agenda for the next Meeting.

Supplementary questions in respect of an agenda item on notice

Supplementary questions for the purpose of clarification of a reply to an Agenda item on Notice may be asked at the absolute discretion of the Chair.

Motions on notice

- (a) Notice

Subject to Standing Order 12, a motion may only be submitted by Governors and must be received by the Secretary in writing at least 14 days prior to the Meeting at which it is proposed to be considered, together with any relevant supporting papers. Except for motions which can be moved without notice under Standing Order 12, the notice of every motion must be signed or transmitted by at least two Governors. For the purposes of this Standing Order 10, receipt of any such motions via electronic means is acceptable. All

motions received by the Secretary will be acknowledged by the Secretary in writing to the Governors who have signed or transmitted the same.

(b) Scope

Motions may only be about matters for which the Council has a responsibility or which affect the services provided by the Foundation Trust.

Motions without notice

The following motions may be moved at any Meeting without notice:

- a) in relation to the accuracy of the minutes of the previous Meeting;
- b) to change the order of business in the agenda for the Meeting;
- c) to refer a matter discussed at a Meeting 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 on the agenda;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a Meeting;
- l) to suspend a particular Standing Order contained within these Standing Orders (provided that any Standing Order may only be suspended if at least one half of the aggregate number of Governors are present at the Meeting in question and provided also that the Standing Order in question may only be suspended for the duration of the Meeting in question);
- m) to exclude the public and press from the Meeting in question (the motion shall be —To exclude the press and public from the remainder of the Meeting, owing to the confidential nature of the business to be transacted.));
- n) to not hear further from a Governor, or to exclude them from the Meeting in question (if a Governor persistently disregards the ruling of the Chair or behaves improperly or offensively or deliberately obstructs business, the Chair, in its absolute discretion, may move that the Governor in question be not heard further at the Meeting in question. If seconded, the motion will be voted on without discussion. If the Governor continues to behave improperly after such a motion is carried, the Chair may move that either the Governor leaves the meeting room or that the Meeting in question is adjourned for a specified period. If seconded, the motion will be voted on without discussion);
- o) to give the consent of the Council to any matter where its consent is required pursuant to the Constitution.

Urgent motions and agenda items

Urgent motions or agenda items may only be submitted by a Governor and must be received by the Secretary in writing before the commencement of the Meeting in question. The Chair shall decide whether the motion or agenda item in question should be tabled.

Any other business

There will not be an agenda item entitled —Any Other Business. Instead, there will be an item for —Motions or Agenda Items on Notice, (which are subject to the other provisions of these Standing Orders). There will be another item for —Urgent Motions or Agenda Items, (which are subject to Standing Order 12).

Speaking

This Standing Order applies to all forms of speech/debate by Governors or Members of the Foundation Trust and the public in relation to the motion or question under discussion at a Meeting.

- a. **Content and Length of Speeches.** Any approval to speak must be given by the Chair. Speeches must be directed to the matter, motion or question under discussion or to a point of order. Unless in the opinion of the Chair it would not be desirable or appropriate to time limit speeches on any topic to be discussed having regard to its nature complexity or importance, no proposal, speech, nor any reply, may exceed three minutes. In the interests of time the Chair may, in its absolute discretion, limit the number replies questions or speeches which are heard at any one Meeting.

- b. **When a person may speak again**

A person who has already spoken on a matter at a Meeting may not speak again at that Meeting in respect of the same matter, except:

- i. in exercise of a right of reply;
- ii. on a point of order.
- iii. Identification

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

Voting

All questions put to the vote shall, at the discretion of the Chair, be decided by a show of hands. A paper ballot may be used if a majority of the Governors present so request.

Attendance

Governors who are unable to attend a Meeting shall notify the Secretary in writing in advance of the Meeting in question so that their apologies may be submitted.

Quorum

The quorum for a Meeting will be as set out in the Constitution.

Chair

The arrangements for presiding at or chairing meetings of the Council of Governors are set out in the Constitution.

To standing orders

These Standing Orders may only be amended at a Meeting. A motion to change the Standing Orders must be signed by five Governors and submitted to the Secretary in writing at least 21 days before the Meeting at which the motion is intended to be proposed.

Dispute between council and the Board

Subject to paragraph 15A of this Constitution, in the event of any unresolved dispute between the Council and the Board, the Chair or the Secretary may arrange for independent professional advice to be obtained for the Foundation Trust. The Chair may also initiate an independent review to investigate and make recommendations in respect of how the dispute may be resolved.

12.1 Disclosure of interests

Material interests

Members of the Council of Governors shall disclose to the Council of Governors any material interests (as defined below) held by a Governor, their spouse or partner, which shall be recorded by the Secretary in the register of interests of governors.

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

Subject to the exceptions below a material interest is:

- any directorship of a company
- any interest or position in any firm, company, business or organisation (including any charitable or voluntary organisation) which has or is likely to have a trading or commercial relationship with the Foundation Trust
- any interest in an organisation providing health and social care services to the National Health Service
- a position of authority in a charity or voluntary organisation in the field of health and social care
- any connection with any organisation, entity or company considering entering into a financial arrangement with the Foundation Trust including but not limited to lenders or banks.

The exceptions which shall not be treated as interests or material interests for the purposes of these provisions are:

- shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange
- an employment contract with the Foundation Trust held by a staff Governor
- an employment contract with a Clinical Commissioning Group appointed by a Clinical Commissioning Group.
- an employment contract with a Local Authority held by a Local Authority Governor an employment contract with a University held by a University Governor
- an employment contract with or other position of authority within a partnership organisation held by a Partnership Governor.

Any Governor who has an interest in a matter to be considered by the Council of Governors (whether because the matter involves a firm, company, business or organisation in which the Governor or his spouse or partner has a material interest or otherwise) shall declare such interest to the Council of Governors and: shall withdraw from the meeting and play no part in the relevant discussion or decision; and shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).

Details of any such interests shall be recorded in the register of interests of Governors.

Any Governor who fails to disclose any interest or material interest required to be disclosed under these provisions must permanently vacate their office if required to do so by a majority of the remaining Governors.

Pecuniary interests

The following definition of terms is to be used in interpreting this Standing Order: "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse) "contract" shall include any proposed contract or other course of dealing.

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

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

Any Governor who has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council of Governors at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter of vote on any question with respect to it.

The Council of Governors may exclude the Chair or a member of the Council from a meeting while any contract, proposed contract or other matter in which they have a pecuniary interest is under consideration.

Any remuneration, compensation or allowance payable to the Chair or a Governor shall not be treated as a pecuniary interest for the purpose of this Standing Order.

This Standing Order applies to a committee or subcommittee and to a joint committee or subcommittee as it applies to the Foundation Trust and applies to a member of any such committee or subcommittee (whether or not they are also a member of the Foundation Trust) as it applies to a Governor of the Foundation Trust.

Exception to Pecuniary interests

A person shall not be regarded as having a pecuniary interest in any contract if: neither they or any person connected with them has any beneficial interest in the securities of a company of which they or such person appears as a member, or any interest that they or any person connected with them may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in relation to considering or voting on that contract, or those securities of any company in which they (or any person connected with them) has a beneficial interest do not exceed two per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less. However the person shall nevertheless be obliged to disclose/declare their interests in accordance with Standing Order 12.24.1.

12.2 Code of Conduct

Governors must comply with the Foundation Trust's Code of Conduct for Governors.

12.3 Committees appointed by the Council

The Council of Governors may not delegate any of its powers to a committee or subcommittee, but it may appoint committees consisting of its members, Directors and other persons to assist the 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 its duties.

All decisions taken in good faith at a meeting of the 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 Governor attending the meeting.

In making any recommendations, a committee must have due regard to the established policies of the Council and shall not depart from them without due reason and consideration. Any such departure and the reason for it shall be drawn to the attention of the Council at the earliest opportunity.

The Council requires its committee to refer back to them for a decision.

In consideration of any recommendations a committee: must comply with the Foundation Trust's Standing Financial Instructions, Standing Orders and written procedures and specific reference to the relevant sections of these documents should be made must comply with any statutory provisions or requirements.

In cases of doubt or difficulty and/or where no policy guidelines exist, decisions should be referred back to the Council.

12.4 Compliance with Standing Orders

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

soon as possible.

12.5 Suspension of Standing Orders

Except where this would contravene any statutory provision or any direction made by the Secretary of State of the rules relating to quorum, any one or more of the Standing Orders may be suspended provided that at least one half of the aggregate number of Governors are present at the meeting in question and that at least two-thirds of those Governors present signify their agreement to such suspension.

The reason for the suspension shall be recorded in the Council's minutes.

A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and members of the Council of Governors. No formal business may be transacted while Standing Orders are suspended.

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

12.6 Dispute between the Council and the Board

In the event of any unresolved dispute between the Council and the Board, the Chair or the Secretary may arrange for independent professional advice to be obtained for the Foundation Trust. The Chair may also initiate an independent review to investigate and make recommendations in respect of how the dispute may be resolved.

A policy will be in place for use in the event of any unresolved dispute between the Board of Directors and the Council of Governors.

13 Procedure for amending the Corporate Governance Manual

Background

This manual sets out how the Trust operates and regulates itself. This is of vital importance in the public sector where the use of public funds and the performance and conduct of the organisation is under constant scrutiny.

Annual Review

The manual will be reviewed annually. It will be reviewed and approved by the Trust's Audit Committee in September each year and thereafter presented to the Board of Directors for adoption at the next available meeting.

All changes⁸ to the manual will be approved by the Audit Committee. The approved changes will be clearly highlighted in the updated Manual which is presented for subsequent adoption to the Board of Directors.

Following adoption, the Chief Executive and the Head of Corporate Affairs are responsible for ensuring that all directors, governors and trust staff are made aware of the manual and their responsibilities in respect of it. An up-to-date version of the manual will at all times be available on the trust's website.

Where there are proposed changes to the manual that require initial review and approval by the Council of Governors, this will be done prior to consideration by the Audit Committee and the Board of Directors.

Care should be taken to ensure that all changes are consistent with the Trust's Constitution. Any proposed changes to the Constitution must first be approved by the Trust's members and NHS Improvement as per paragraph 38 of the Constitution.

Changes to Standing Financial Instructions, Scheme of Delegation of Board powers and associated section or which have financial implications or impact must always be routed through the Trust's Finance Department, where the Senior Financial Controller will ensure all financial aspects of the change are given due consideration and approval. These changes must be subsequently approved by the Operational Board ahead of consideration by the Audit Committee and Board of Directors.

The Head of Corporate Affairs will co-ordinate the submission of Corporate Governance Manual changes for approval to the Audit Committee, the Board of Directors and the Council of Governors as required.

Periodic Updating

The manual will be reviewed annually when necessary changes will be made. However it is recognised that changes may need to be made in-year to reflect legislative, constitutional, operational or other requirements i.e. periodic updating.

In such circumstances the same procedures must be followed, in due order, as specified above in respect of the annual review.

⁸ With the exception of minor changes such as an organisational name change which will be reported for noting to the next available Audit Committee