The Dudley Group
NHS Foundation Trust

FOUNDATION TRUST CONSTITUTION

December 2024

The Dudley Group NHS Foundation Trust Constitution

TABLE OF CONTENTS

Paragraph		Page
1.	Interpretations and definitions	4
2.	Name	5
3.	Principal purpose	5
4.	Powers	5
5.	Membership and constituencies	5
6.	Application for membership	6
7.	Public constituency	5
8.	Staff constituency	6
9.	Restriction on membership	7
10.	Annual Members Meeting	7
11.	Council of Governors ï composition	7
12.	Council of Governors ï election of Governors	8
13.	Council of Governors ï tenure	8
14.	Council of Governors ï disqualification and removal	8
15.	Council of Governors ï meeting of Governors	9
16.	Council of Governors duties	9
17.	Council of Governors ï standing orders	10
18.	Referral to panel	10
19.	Council of Governors ï conflicts of interest of Governors	10
20.	Council of Governors ï expenses	11
21.	Council of Governors ï further provisions	11
22.	Board of Directors ï composition	11
23.	Board of Directors ï general duties	12
24.	Board of Directors ï qualification for appointment as Non-executive	12
25.	Board of Directors ï Annual Report	12
26.	Board of Directors ï appointment and removal	12
27.	Board of Directors ï appointment of chair, senior independent non-executive directors and deputy chair and other voting non-executive directors	12
28.	Board of Directors ï appointment and removal of Chief Executive and other executive directors	13
29.	Board of Directors ï disqualification	13
30.	Board of Directors ï meetings	14
31.	Board of Directors ï voting	14
32.	Board of Directors ï standing orders	14
33.	Board of Directors ï conflicts of interest of directors	15
34.	Board of Directors ï remuneration and terms of office	16
35.	Registers	16
36.	Admission to and removal from registers	17
37.	Registers ï inspection and copies	17
38.	Documents available for public inspection	18

39.	External Auditor	18
40.	Audit committee	18
41.	Accounts	18
42.	Annual report, forward plans and non-NHS work	19
43.	Meeting of Council of Governors to consider annual accounts and reports	20
44.	Instruments	20
45.	Amendment of the Constitution	20
46.	Indemnity	21
47.	Procedures and protocols	21
48.	Mergers, acquisitions, separation or dissolution and significant transactions	22

Annex number		**Page**
1	THE PUBLIC CONSTITUENCIES	23
2	THE STAFF CONSTITUENCY	24
3	T H E P A T I E N T S ô C O N S T I T U E N C Y	26
4	COMPOSITION OF COUNCIL OF GOVERNORS	27
5	THE MODEL RULES FOR ELECTIONS	28
6	ADDITIONAL PROVISIONS ï COUNCIL OF GOVERNORS	64
7	STANDING ORDERS ï COUNCIL OF GOVERNORS	66
8	STANDING ORDERS ï BOARD OF DIRECTORS	83
9	FURTHER PROVISIONS	113
10	TRUST PRINCIPLES	116
11	RESERVATION OF POWERS AND SCHEME OF DELEGATION	118
12	ANNUAL MEMBERS MEETING	135
	Table recording changes	138

1. Interpretation and definitions

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

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

The 2006 Act is the National Health Service Act 2006.

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

The 2022 Act is the Health and Social Care Act 2022.

Board of Directors - The Board of Directors comprises:

(a) executive directors, one of whom is the chief executive (and accounting officer) and another the finance director,

(b) non-executive directors, one of whom is the chair.

One of the executive directors shall be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984 (c 24); and another shall be a registered nurse or a registered midwife.

The Board of Directors comprises non-executive and executive directors is led by the chair. The Board provides effective and proactive leadership of the Trust; to set the strategic aims of the Trust, ensuring the quality, safety and effectiveness of the services provided as well as ensuring that the Trust is well-governed in every aspect of its activities.

ñACCOUNTING OFFICERò is the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.

ñANNUAL MEMBERS MEETINGò has the meaning given in paragraph 10 of this constitution

ñCQCò is the Care Quality Commission

ñCONSTITUTIONò means this constitution and all annexes contained within it.

ñCOUNCIL OF GOVERNORSò means the Council of Governors as defined in the 2006 Act.

ñTERMS OF AUTHORISATIONò are the terms of authorisation issued by NHS England to give an organisation Foundation Trust status.

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

2. Name

The name of the foundation trust is The Dudley Group NHS Foundation Trust (the Trust).

3. Principal purpose

3.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.

3.2 The Trust does not fulfill its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

3.3 The Trust may provide goods and services for any purposes related to:

3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and

3.3.2 the promotion and protection of public health.

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

4. Powers

4.1 The powers of the Trust are set out in the 2006 Act, 2012 Act and 2022 Act, subject to any restrictions in the Terms of Authorisation.

4.2 All powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.

4.3 Any of these powers may be delegated to a committee of directors or to an executive director.

5. Membership and constituencies

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

5.1 a public constituency or,

5.2 the staff constituency.

6. Application for membership

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

7. Public Constituency

7.1 An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a member of the Trust.

7.2 Those individuals who live in an area specified for any public constituency are referred to collectively as the Public Constituency.

7.3 The minimum number of members in each area for the Public Constituency is specified in Annex 1.

8. Staff Constituency

8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:

8.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or

8.1.2 they have been continuously employed by the Trust under a contract of employment for at least 12 months. An y p e r i o d o f e m p l o y m e n t u n d e r a c o n t r a c t o f e m p l t o t h e T r u s t p u r s u a n t t o t h e T r a n s f o f E m p l o y m e n t) (T U P E) R e g u l a t i o n s 2 t h i s m o n t h q u a l i f y i n g p e r i o d .

8.2 Individuals from partner organisations who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, and who work in The Dudley Group premises or in premises specifically serving the Trust, may become or continue as members of the staff constituency provided such individuals have exercised these functions continuously for a period of at least 12 months. Organisations whose employees may be entitled to become Members of the staff constituency, as at the date of adoption of this constitution, by virtue of exercising functions for the Trust include those listed at Annex 2. W h e r e t h e T r u s t t a k e s o n s e r v i p r o v i d e d b y a n o t h e r o r g a n i s a t i o n , a n y e x e r c i s e d f u n c t i o n s f o r t h a t o t h e r o r g s e r v i c e s s h a l l c o u n t t o w a r d s t h e 1 2 m o i n d i v i d u a l c o n t i n u e s t o e x e r c i s e t h e s T r u s t i m m e d i a t e l y f o l l o w i n g t h e T r u s t ô s e r v i c e s

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

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

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

Automatic membership by default: staff

8.6 An individual who is eligible for membership by virtue of paragraph 8.1 above shall have the opportunity to become a member of the Trust as a member of the Staff Constituency and the appropriate class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

9. Restriction on membership

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

9.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.

9.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the trust are set out in Annex 9 ï Further Provisions.

10. Annual Members Meeting

10.1 The Trust shall hold an annual meeting (the Annual Members Meeting). The Annual Members Meeting shall be open to members of the public.

10.2 Further provision about the Annual Members Meeting is set out in Annex 12 Annual Members Meeting.

11. Council of Governors ï composition

11.1 The Trust is to have a Council of Governors, which shall comprise both elected and appointed Governors.

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

11.3 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency or, where there are classes within a constituency, by their class within that constituency. The number of governors to be elected by each constituency, or, where appropriate, by each class of each constituency, is specified in Annex 4.

12. Council of Governors ï election of Governors

12.1 Elections for elected Members of the Council of Governors shall be conducted in accordance with the Model Rules for Elections, as may be varied from time to time.

12.2 The Model Rules for Elections, as may be varied from time to time, form part of this constitution and are attached at Annex 5.

12.3 A variation of the Model Rules by the Department of Health and Social Care shall not constitute a variation of the terms of this constitution. For the avoidance of doubt, the Trust cannot amend the Model Rules.

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

12.5 A vacant governor post may be filled without an election where permitted by the Model Rules as they apply to the Trust or by paragraph 8 on Annex 9.

13. Council of Governors - tenure

13.1 An elected governor and appointed governor may hold office for an initial term of up to three years.

13.2 An elected governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.

13.3 An elected governor shall be eligible for re-election at the end of his or her term, subject to a maximum period of office of nine years.

13.4 An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of him/her.

13.5 An appointed governor shall be eligible for a re-appointment at the end of his or her term (subject to a maximum period of office of six years).

14. Council of Governors ï disqualification and removal

14.1 The following may not become or continue as a member of the Council of Governors:

14.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;

14.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it;

14.1.3 a person who within the preceding five years has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him or her.

14.2 Governors must be at least 16 years of age at the date they are nominated for election or appointment.

14.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors are set out in Annex 6.

14.4 The constitution makes provision for the removal of Governors in Annex 6.

15. Council of Governors ï meetings of Governors

15.1 The chair of the Trust (i.e. the chair of the Board of Directors, appointed in accordance with the provisions of paragraph 20.1 or paragraph 21.1 below) or, in his or her absence, the deputy chair (appointed in accordance with the provisions of paragraph 22 below), shall preside at meetings of the Council of Governors.

15.2 Meetings of the Council of Governors shall normally be open to members of the public. Members of the public may be excluded from the whole or part of a meeting for special reasons, either by resolution of the Council of Governors or at the discretion of the chair of the meeting.

16. Council of Governors ï duties

The general duties of the Council of Governors are:

16.1 to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors.

16.2 to represent the interests of the members of the Trust as a whole and the interests of the wider public.

The Trust must take steps to ensure that the governors are equipped with the skills and the knowledge they require in their capacity as such.

The specific duties of the Council of Governors are:

16.3 to decide the remuneration and allowances and other terms and conditions of office of the non-executive directors.

16.4 to appoint or remove the Trust auditor.

16.5 to be presented with the annual accounts, any report of the auditor on them and the annual report.

16.6 to appoint, and if required, to remove the Trust chair and other non-executive directors.

16.7 to approve (by a majority of the Council of Governors voting) the appointment of the chief executive.

16.8 to be consulted by the Trustôs Board of and to have their views taken into account.

17. Council of Governors ï standing orders

17.1 The standing orders for the practice and procedure of the Council of Governors, as may be varied from time to time, are attached at Annex 7.

18. Council of Governors ï referral to the Panel

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

18.1.1 to act in accordance with its Constitution, or

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

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

19. Council of Governors - conflicts of interest of governors

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

20. Council of Governors ï expenses

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

21. Council of Governors ï further provisions

21.1 Further provisions with respect to the Council of Governors are set out in Annex 6.

22. Board of Directors ï composition

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

22.2 Subject to paragraph 2.6 of Annex 8, the Board of Directors is to comprise:

22.2.1 a non-executive chair

22.2.2 Not less than five and no greater than eight other voting non-executive directors; and

22.2.3 a chief executive and not less than four and no more than seven voting executive directors

22.2.3 at least half of the Board of Directors, excluding the chair, will comprise of non-executive directors determined to be independent.

22.3 One of the executive directors shall be the chief executive.

22.4 The chief executive shall be the accounting officer.

22.5 One of the executive directors shall be the finance director, with qualifications approved by the Consultative Committee of Accountancy Bodies (CCAB).

22.6 One of the executive directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

22.7 One of the executive directors is to be a registered nurse or a registered midwife.

22.8 The Board may determine that other Trust officers may attend meeting of the Board of Directors as, and when, required to provide operational advice and support to the Board to assist the Board in the discharge of its responsibility. For the avoidance of doubt, such an officer attending will not be a director of the purpose of the 2006 Act. Nor will they be able to vote and will bear no responsibility or liability for an action of decision of the Board of Directors.

23. Board of Directors ï general duties

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

24. Board of Directors ï qualification for appointment as a non-executive Director

A person may be appointed as a voting or non-voting non-executive director only if:

24.1 he or she is a member of the Public Constituency,

24.2 he or she is not disqualified by virtue of paragraph 29 below.

25. Annual Report

25.1 the Board will publish in its annual report, each non-executive director it considers to be independent. At least half the Board, excluding the chair, will comprise non-executive directors determined by the Board to be independent.

26. Board of Directors ï appointment and removal of chair, deputy chair and other non-executive directors

26.1 A nominations committee shall be established to make recommendations to the Council of Governors in respect of the appointment made of chair, deputy chair, senior independent director and other non-executive directors; only at a general meeting of the Council of Governors can appointment or removal of the chair, deputy chair of the Trust and the other voting non-executive directors be undertaken.

26.2 Removal of the chair, deputy chair or another voting non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

26.3 The chair and the voting non-executive directors are to be appointed in accordance with paragraph 27 below and cognisant of the requirements where the chair may be appointed chair of more than one trust.

27. Board of Directors ï appointment of chair, senior independent director and deputy chair and other voting non-executive directors

27.1 The criteria for qualification for appointment as a voting and non-voting non-executive director is set out in paragraph 24 above.

27.2 The power of the Council of Governors to re-appoint non-executive directors is to be exercised, so far as possible, by re-appointing up to a maximum of nine years terms and for exceptional approval would be required in cases that exceed this period.

27.3 The validity of any act of the Trust is not affected by any vacancy among the Directors or by any defect in the appointment of a director.

28. Board of Directors - appointment and removal of the chief executive and other executive directors

28.1 The voting non-executive directors shall appoint or remove the chief executive.

28.2 The appointment of the chief executive shall require the approval of the Council of Governors in accordance with clause 16.7.

28.3 A committee consisting of the chair, the chief executive and the other non-executive directors shall appoint or remove the other executive directors.

29. Board of Directors ï disqualification

An individual cannot become, or continue to be, a director or a member of the Board of Directors if the individual is disqualified or otherwise prevented from being a director under the Directors Disqualification Act 1986. The following may not become, or continue as, a member of the Board of Directors:

29.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.

29.2 a person who has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

29.3 a person, who within the preceding five years, has been convicted in the British Isles of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him or her.

29.4 a person who is, or is the spouse or partner of, a member of a clinical commissioning group (for the purposes of the Health and Social Care Act 2012 established to commission NHS funded services) that commissions services from the Trust.

29.5 A person fails to meet the Fit and Proper Persons requirements as it applies under the current Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. See NHS England Fit and Proper Person Test Framework for board members.

29.6 Where a person has been appointed as a director and that person becomes disqualified for appointment or circumstances arise where that person may no longer meet all the Fit and Proper Persons requirements they shall notify the trust secretary in writing of such disqualification or circumstances.

30. Board of Directors Meetings

30.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

31. Board of Directors Voting

31.1 Only eligible members of the Board of Directors shall be entitled to participate in, and exercise a vote of the Board of Directors.

31.2 Save where expressly set out to the contrary in this constitution, a resolution or motion of the Board of Directors shall be passed when:

31.2.1 A simple majority of eligible directors present and voting on that resolution or motion vote in favour of the resolution or motion;

31.2.2 there is an equality of votes, the chair shall have a further or casting vote.

31.3 A director shall be eligible, if entitled to vote at the relevant meeting and on the relevant matter at that meeting of the Board of Directors (but excluding any director whose vote is not to be counted in respect of the particular matter).

32. Board of Directors ï standing orders

32.1 The standing orders for the practice and procedure of the Board of Directors, as may be varied from time to time, are attached at Annex 8.

33. Board of Directors - conflicts of interest of directors

33.1 The duties that a director of the Trust has by virtue of being a director include in particular:

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

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

33.2 The duty referred to in sub paragraph 31.1.1 is not infringed if:

33.2.1 the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

33.2.2 the matter has been authorised in accordance with the Constitution

33.3 The duty referred to in sub-paragraph 31.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

33.4 In sub-paragraph 31. 1 . 2 ñ t h i r d p a r t y ò m e a n s a p e

33.4.1 the Trust, or

33.4.2 a person acting on its behalf.

33.5 If a director of the Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the director must declare the nature and extent of that interest to the other directors.

33.6 If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made.

33.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

33.8 This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

33.9 A director needs not declare an interest:

33.9.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

33.9.2 if, or to the extent that, the directors are already aware of it;

33.9.3 if, or to the extent that, it concerns the terms of his or her proposed appointment that have been or are to be considered:

33.9.3.1 by a meeting of the Board of Directors, or

33.9.3.2 by a committee of the directors appointed for the purpose under the constitution.

33.10 A matter shall be "authorised" for the purposes of paragraphs 33.2 to 33.9 if:

33.10.1 the director's interest can reasonably be regarded as not likely to give rise to a conflict of interest, or

33.10.2 the director's conflict of interest is permitted by the Board of Directors from time to time, upon the vote of a majority of Directors who do not have the conflict.

34. Board of Directors' remuneration and terms of office

34.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the chair and the other voting non-executive directors in light of any recommendations made by the Council of Governors Appointments and Remuneration Committee.

34.2 The Trust shall establish a committee of voting non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the chief executive and other executive directors.

34.3 The terms of office shall be reflective of any guidance issued by NHS England.

35. Registers

The Trust shall maintain:

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

35.2 a register of members of the Council of Governors;

35.3 a register of interests of governors;

35.4 a register of board members; and

35.5 a register of interests of board members.

36. Admission to and removal from the registers

36.1 Any person entitled to be a member who, as appropriate, applies or is invited to become a member, shall have their name added to the register of members. Such personôs membership shall commence from the date of their name being added to the register of members.

36.2 The trust secretary shall remove from the register of members the name of any member who ceases to be entitled to be a member and if:

36.2.1 the member is no longer eligible under the provisions of this constitution or is disqualified
36.2.2 the member is deceased
36.2.3 the member opts out.

36.3 The register of governors shall list the names of governors, their category of membership of the Council of Governors and an address through which they may be contacted (which may be the trust secretary).

36.4 The register of interests of governors shall contain the name of each governor, whether he has declared any interests and, if so, the interests declared in accordance with this Constitution or the standing orders for governors.

36.5 The register of board members shall list the names of directors, their capacity on the Board of Directors and an address through which they may be contacted (which may be the trust secretary).

36.6 The register of interests of directors shall contain the names of each director, whether he has declared any interests and, if so, the interests declared in accordance with this Constitution on the standing orders for directors.

37. Registers ï inspection and copies

37.1 The Trust shall make the registers specified in paragraph 35 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

37.2 The Trust shall not make any part of its register of member available for inspection by members of the public, if the member so requests.

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

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

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

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

38. Documents available for public inspection

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

37.1.1 a copy of the current Constitution;

37.1.2 a copy of the current authorisation;

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

37.1.4 a copy of the latest annual report and quality accounts;

37.1.5 a copy of the latest information as to its forward planning; and

37.1.6 a copy of any notice given under section 52 of the 2006 Act.

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

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

39. External Auditor

39.1 The Trust shall have an external auditor.

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

40. Audit committee

40.1 The Trust shall establish a committee of voting non-executive directors as an Audit Committee to perform such monitoring, reviewing and other functions as is appropriate.

41. Accounts

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

41.2 NHS England may, with the approval of the Secretary of State, give directions to the Trust as to the content and form of its accounts.

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

41.4 The Trust shall prepare in respect of each financial year annual accounts in such form as NHS England may, with the approval of the Secretary of State direct.

41.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the accounting officer.

42. Annual report and forward plans and non-NHS work

42.1 The Trust shall prepare an Annual Report and send it to NHS England.

42.2 The Trust shall give information as to its forward planning in respect of each financial year to NHS England.

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

42.4 In preparing the document, the directors shall have regard to the views of the Council of Governors. Each forward plan must include information about:

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

42.4.2 the income it expects to receive from doing so.

42.5 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub paragraph 4.1, the Council of Governors must:

42.5.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfillment by the Trust of its principal purpose or the performance of its other functions, and

42.5.2 notify the directors of the Trust of its determination.

42.6 Where the Trust proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than

the provision of goods and services for the purposes of the health service in England, this shall not be implemented unless more than half of the members of the Council of Governors voting approve its implementation.

42.7 For a statutory transaction more than three quarters of the members of the Council of Governors must approve any application by the Trust to:

42.7.1 merge with or acquire another trust

42.7.2 separate the Trust into two or more new foundation trusts

42.7.3 be dissolved.

43. Meeting of Council of Governors to consider annual accounts and reports

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

43.1.1 the annual accounts

43.1.2 any report of the auditor on them

43.1.3 the annual report and quality account

43.2 The documents shall also be presented to the members of the Trust at the Annual Members Meeting by at least one member of the Board of Directors in attendance.

44. Instruments

44.1 The Trust shall have a seal.

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

45. Amendment of the Constitution

45.1 The Trust may make amendments of its Constitution only if:

45.1.1 more than half of the Council of Governors of the Trust voting to approve the amendments; and,

45.1.2 more than half of the members of the eligible voting Board of Directors of the Trust approve the amendments.

45.2 Amendments made under paragraph 45.1 take effect as soon as the conditions in that paragraph are satisfied but the amendment has no

effect in so far as the constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

45.3 Where an amendment is made to the Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust)

45.3.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and explain the amendment; and,

45.3.2 the Trust must give the members an opportunity to vote on whether they approve the amendment; and

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

45.4 An amendment initially made pursuant to paragraph 45.1 but which later fails to achieve the approval of more than half of the members voting, and any actions taken pursuant to that amendment, shall be valid from the approvals pursuant to paragraph 45.1 until the time of the vote at which the approval of more than half of the members voting was not achieved pursuant to paragraph 45.3.3 (the time of the vote at which the approval of more than half of the members voting was not achieved pursuant to paragraph 45.3.3 being the "**Rescission Date**") As from the Rescission Date, the relevant amendment shall cease to have effect and the Constitution shall revert to its pre-amendment state. The Constitution shall be amended accordingly and notified to NHS England.

46. Indemnity

46.1 Members of the Board of Directors and Council of Governors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution of their functions, any costs arising in this way will be met by the Trust. This does not apply when the relevant person has acted recklessly.

46.2 The Trust may purchase and maintain for members of the Council of Governors and Board of Directors insurance against Directors' and officers' liability, including, without limitation, liability incurred by them in relation to the activities of the Trust acting as a corporate trustee of an NHS charity.

47. Procedures and protocols

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

48. Mergers etc. and Significant Transactions

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

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

48.3 ñSignificant transactionò means a transaction or arrangement under which any income or expenditure attributable to the transaction and/or the contract associated with the transaction is greater than either 25% of the operating income of the Trust, any increase or decrease in the fixed assets of the Trust is greater than 25% of the fixed assets of the Trust or any increase or decrease in the capital of the Trust is greater than 25% of the capital of the Trust, all as set out in the preceding Financial Year's annual accounts.

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

48.3.2 the increase or decrease in income attributable to:

48.3.2.1 the assets; or

48.3.2.2 the contract associated with the transaction represents more than 25% of the value of th income; or

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

ANNEX 1 ï THE PUBLIC CONSTITUENCIES

(Paragraphs 7.1 and 7.3)

Eligibility to become a member of the Public Constituency is open to people living within the defined catchment area of the Trust. This will include residents from the following Local Authority electoral areas (as defined for the purpose of Local Authority elections). The Public Constituency may also include volunteers providing support to the Trust who will be a member of the constituency in which they ordinarily reside.

An individual is only eligible for membership of the public constituency if they live in an area specified in the Constitution for a public constituency.

Constituency	**Minimum Number of Members**	**Number of Governors to be elected from that Constituency**
Dudley		
Brierley Hill	50	2
Central Dudley	50	2
North Dudley	50	2
Stourbridge	50	2
Halesowen	50	2
Others		
Tipton and Rowley Regis	24	1
South Staffordshire and Wyre Forest	24	1
Rest of England	12	1

ANNEX 2 ï THE STAFF CONSTITUENCY

(Paragraphs 8.1 and 8.2)

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

Class	Minimum Number of Members	Number of Staff Governors
Medical and Dental	44	1
Nursing and Midwifery	157	3
Allied Health Professionals, Pharmacy and Healthcare Scientists	79	2
Non-Clinical Staff	58	1
Partner Organisations Employees from for example: Summit Healthcare (Dudley) Limited Mitie Commissionersï Dudley, Sandwell, Worcestershire, South Staffordshire Local Authorities ï Dudley MBC, Sandwell MBC, Wyre Forest District Council, South Staffordshire District Council	10	1

Medical:
The members of the Medical staff class shall include individuals who are eligible as members of the Staff Constituency and who are persons who are included in the register of medical practitioners maintained in accordance with Section 2 of the Medical Act 1983 or a registered dentist (within the meaning of the Dentists Act 1984 and who hold a licence to practice if and when this is required by legislation to enable such a person to practice. For the avoidance of doubt, the Medical staff class shall include junior doctors who have been registered provisionally in the register of medical practitioners.

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

Allied Health Professionals, Pharmacy and Health Care Scientists Staff:
The members of the Allied Health Professionals, Pharmacy and Health Care Scientist class shall include individuals e.g. clinical support staff who are eligible as members of the Staff Constituency who do not fall within the Medical and Dental Practitioners staff class or the Nursing and Midwifery staff class but whose regulatory body is within the remit of the Council for Healthcare Regulatory Excellence or who

are otherwise designated by the Trust from time to time as eligible to be members of this class.

Non-clinical Staff (including eligible contractors):
The members of the Non-clinical Staff class shall include individuals who are management, administrative and support staff eligible as members of the Staff Constituency but do not fall within any of the other staff classes mentioned above. The Non-clinical Staff class shall include individuals who are not employed by the Trust but carry out the functions of the Trust through an independent contractor as a designated partner organisation.

ANNEX 3 ï THE PATIENTSôCONSTITUENCY

ANNEX 4 ï COMPOSITION OF COUNCIL OF GOVERNORS

(Paragraphs 11.1 and 11.3)

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

Constituency/Class	**No. of Governors**
Public	
Brierley Hill Ward	2
Central Dudley Ward	2
North Dudley Ward	2
Stourbridge Ward	2
Halesowen Ward	2
Rowley Regis and Tipton Ward	1
South Staffordshire and Wyre Forest Ward	1
Rest of England	1
Total Public	**13**
Staff	
Medical and Dental	1
Nursing and Midwifery	3
Allied Health Professionals, Pharmacy and Healthcare Scientists	2
Non-clinical Staff	1
Partner Organisationôs staff	1
Total Staff	**8**
Appointed (by a statutory or partnership organisation)	
Primary Care representative	1
Dudley Metropolitan Borough Council	1
University of Wolverhampton	1
Governor appointed by Dudley Council for Voluntary Service, who may be a Dudley Group NHS Foundation Trust Hospital Volunteer	1
Total Appointed	**4**
Grand Total	**25**

Note: Appointed governors are appointed by a statutory or partnership organisation in accordance with the 2006 Act Schedule 7 para 9(7) and 2012 Act.

ANNEX 5 ï THE MODEL RULES FOR ELECTIONS

Model Rules for Elections

Reviewed April 2019

CONTENTS

Paragraph

Part 1 - Interpretation

1. Interpretation

Part 2 ï Timetable for election

2. Timetable
3. Computation of time

Part 3 ï Returning officer

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

Part 4 - Stages Common to Contested and Uncontested Elections

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

Part 5 ï Contested elections

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

Action to be taken before the poll

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

The poll

27. Eligibility to vote
28. Voting by persons who require assistance
29. Spoilt ballot papers
30. Lost voting information
31. Issue of replacement ballot paper
32. Declaration of identity replacement ballot papers public constituency

Procedure for receipt of envelopes

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

Part 6 - Counting the votes

37. Interpretation of Part 6
38. Arrangements for counting of the votes
39. The count
40. Rejected ballot papers
41. First stage
42. The quota
43. Transfer of votes
44. Supplementary provisions on transfer
45. Exclusion of candidates
46. Filling of last vacancies
47. Order of election of candidates

Part 7 ï Final proceedings in contested and uncontested elections

48. Declaration of result for contested elections
49. Declaration of result for uncontested elections

Part 8 ï Disposal of documents

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

Part 9 ï Death of a candidate during a contested election

55. Countermand or abandonment of poll on death of candidate

Part 10 ï Election expenses and publicity

Expenses

56. Election expenses
57. Expenses and payments by candidates
58. Election expenses incurred by other persons
59. Publicity about election by the Trust
60. Information about candidates for inclusion with voting documents
61. Meaning of ñfor the purposes of an electionò

Publicity

Part 11 ï Questioning elections and irregularities

62. Application to question an election

Part 12 ï Miscellaneous

63. Secrecy
64. Prohibition of disclosure of vote
65. Disqualification
66. Delay in postal service through industrial action or unforeseen event
67. Effect of administrative or clerical errors on election

PART 1 - INTERPRETATION

1. Interpretation

1.1 In these rules, unless the context otherwise requires:

ñCOUNCIL OF GOVERNORSò means the council of governors of the Trust;

ñDECLARATION OF IDENTITYò has the meaning set out in rule 21;

ñELECTIONò means an election by a constituency, or by a class within a constituency, to fill vacancy among one or more posts on the Council of Governors;

ñE-VOTINGò means voting using either the internet, telephone or text message;

ñE-VOTING INFORMATIONò has the meaning set out in rule 24.2;

ñID DECLARATION FORMò has the meaning set out in rule 21;

ñINTERNET VOTING RECORDò has the meaning set out in rule 26.1.4(d);

ñINTERNET VOTING SYSTEMò means such computer hardware and software, data other equipment and services as may be provided by the returning officer for the purpose of enabling voters to cast their votes using the internet;

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

ñLIST OF ELIGIBLE VOTERSò means the list referred to in rule 22.1, containing the information in rule 22.2;

ñMETHOD OF POLLINGò means a method of casting a vote in a poll, which may be by post, internet, text message or telephone;

ñNUMERICAL VOTING CODEò has the meaning set out in rule 63;

ñPOLLING WEBSITEò has the meaning set out in rule 26.1;

ñPOSTAL VOTING INFORMATIONò has the meaning set out in rule 24.1;

ñTHE REGULATORò means the Independent Regulator for NHS foundation trusts ï NHS England as given in 2012 Act; and ñ t h e 2 0 0 6 A c t means the National Health Service Act 2006.

ñTELEPHONE SHORT CODEò means a short telephone number used for the purposes of submitting a vote by text message;

ñTHE TRUSTò means the public benefit corporation subject to this constitution;

ñVOTER ID NUMBERò means a unique, randomly generated numeric identifier allocated to each voter by the Returning Officer for the purpose of e-voting;

ñVOTING INFORMATIONò means postal voting information and/or e-voting information.

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

PART 2 – TIMETABLE FOR ELECTION

2. Timetable

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

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

3. Computation of time

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

(a) Saturday or Sunday;

(b) Christmas day, Good Friday, or a bank holiday, or

(c) A day appointed for public thanksgiving or mourning, shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll, nor shall the returning officer be obliged to proceed with the counting of votes on such a day.

3.2 In this rule, ñbank holidayò means a day
Banking and Financial Dealings Act 1971 in England and Wales.

PART 3 – RETURNING OFFICER

4. Returning officer

4.1 Subject to rule 65, the returning officer for an election is to be appointed by the Trust.

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

5. Staff

5.1 Subject to rule 65, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure

The Trust is to pay the returning officer:

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

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

7. Duty of co-operation

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

PART 4 - STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of election

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

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

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

(c) the details of any nomination committee that has been established by the Trust,

(d) the address and times at which nomination papers may be obtained,

(e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,

(f) the date and time by which any notice of withdrawal must be received by the returning officer

(g) the contact details of the returning officer; and,

(h) the date and time of the close of the poll in the event of a contest.

9. Nomination of candidates

9.1 Each candidate must nominate themselves on a single nomination paper.

9.2 The returning officer:

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

(b) is to prepare a nomination paper for signature at the request of any member of the Trust, but it is not necessary for a nomination to be on a form supplied by the returning officer.

10. Candidateôs consent and particulars

The nomination paper must state the candidate

(a) full name,

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

(c) Constituency or class within a constituency of which the candidate is a member.

11. Declaration of interests

The nomination paper must state:

(a) any financial interest that the candidate has in the Trust, and

(b) whether the candidate is a member of a political party, and if so, which party,

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

12. Declaration of eligibility

The nomination paper must include a declaration made by the candidate:

(a) that he or she is not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the constitution; and,

(b) for a member of the public constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

13. Signature of candidate

13.1 The nomination paper must be signed and dated by the candidate, indicating that;

(a) they wish to stand as a candidate,

(b) their declaration of interests as required under rule 11, is true and correct, and

(c) their declaration of eligibility, as required under rule 12, is true and correct.

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

14. Decisions as to the validity of nomination

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

(a) decides that the candidate is not eligible to stand,

(b) decides that the nomination paper is invalid,

(c) receives satisfactory proof that the candidate has died, or

(d) receives a written request by the candidate of their withdrawal from candidacy.

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

(a) that the paper is not received on or before the final time and date for return of nomination papers, as specified in the notice of the election,

(b) that the paper does not contain the ca by rule 10;

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

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

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

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

14.4 Where the returning officer decides that a nomination is invalid, the returning

officer must endorse this on the nomination paper, stating the reasons for their decision.

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

15. Publication of statement of nominated candidates

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

15.2 The statement must show:

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

(b) the declared interests of each candidate standing, as given in their nomination paper.

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

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

16. Inspection of statement of nominated candidates and nomination papers

16.1 The Trust is to make the statements of the candidates and the nomination papers supplied by the returning officer under rule 15 (4) available for inspection by members of the public free of charge at all reasonable times.

16.2 If a person requests a copy or extract of the statements of candidates or their nomination papers, the Trust is to provide that person with the copy or extract free of charge.

17. Withdrawal of candidates

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

18. Method of election

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

18.2 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of Members to be elected to the council of Governors, those candidates are to be declared

elected in accordance with Part 7 of these rules.

18.3 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of Members to be elected to be council of Governors, then ï

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

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

PART 5 – CONTESTED ELECTIONS

19. Poll to be taken by ballot

19.1 The votes at the poll must be given by secret ballot.

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

20. The ballot paper

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

20.2 Every ballot paper must specify:

(a) the name of the Trust,

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

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

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

(e) instructions on how to vote,

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

(g) the contact details of the returning officer.

20.3 Each ballot paper must have a unique identifier.

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

21. The declaration of identity public constituency

21.1 In respect of an election for a public constituency a declaration of identity must be issued with each ballot paper.

21.2 The declaration of identity is to include a declaration:

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

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

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

21.3 The declaration of identity is to include space for:

(a) the name of the voter,

(b) the address of the voter,

(c) the voter's signature, and

(d) the date that the declaration was made by the voter.

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

21.5 The declaration of identity must caution the voter that, if it is not returned with the ballot paper, or if it is returned without being correctly completed, the voter's ballot paper may be declared inva

Action to be taken before the poll

22. List of eligible voters

22.1 The Trust is to provide the returning officer with a list of the Members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 26 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

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

23. Notice of poll

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

(a) the name of the Trust,

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

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

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

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

(f) the address for return of the ballot papers, and the date and time of the close of the poll,

(g) the address and final dates for applications for replacement ballot papers,

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

(i) the contact details of the returning officer.

24. Issue of voting documents by returning officer

24.1 As soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following documents to each member of the Trust named in the list of eligible voters:

(a) a ballot paper and ballot paper envelope,

(b) a declaration of identity (if required),

(c) information about each candidate standing for election, pursuant to rule 59 of these rules, and

(d) a covering envelope.

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

25. Ballot paper envelope and covering envelope

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

25.2 The covering envelope is to have:

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

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

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

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

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

26. E-voting systems

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

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

26.3 If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in the message voting facilityò).

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

(a) require a voter to:

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

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

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

(b) specify:

(i) the name of the corporation,

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

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

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

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

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

(vii) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of:

(i) the voterôs voter ID number;

(ii) the voterôs declaration of identity

(iii) the candidate or candidates for whom the voter has voted; and

(iv) the date and time of the voterôs vo

(e) if the voterôs vote has been duly cast a confirmation of this; and

(f) prevent any voter from voting after the close of poll.

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

(a) require a voter to

(i) enter his or her voter ID number in order to be able to cast his or her vote; and

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

(b) specify:

(i) the name of the corporation,

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

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

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

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

(vi) the contact details of the returning officer;

(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises of:

(i) the voterôs voter ID number;

(ii) the voterôs declaration of identity

(iii) the candidate or candidates for whom the voter has voted; and

(iv) the date and time of the voterôs vo

(e) if the voterôs vote has been duly cast with confirmation of this;

(f) prevent any voter from voting after the close of poll.

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

(a) require a voter to:

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

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

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

(b) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:

(i) the voterôs voter ID number;

(ii) the voterôs declaration of identity (

(ii) the candidate or candidates for whom the voter has voted; and

(iii) the date and time of the voterôs vote

(d) if the voterôs vote is recorded, provide the voter with confirmation of this;

(e) prevent any voter from voting after the close of poll.

The poll

27. Eligibility to vote

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

28. Voting by persons who require assistance

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

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

29. Spoilt ballot papers

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

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

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

(a) is satisfied as to the voterôs identit

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

29.4 After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter in a list (ñthe list

(a) the name of the voter, and

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

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

30. Lost voting information

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

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

(a) is satisfied as to the voterôs identit

(b) has no reason to doubt that the voter did not receive the original ballot paper, and

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

30.3 After issuing a replacement ballot paper for a lost ballot paper, the returning officer shall enter in a list (ñthe list

(a) the name of the voter, and

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

31. Issue of replacement ballot paper

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

31.2 After issuing a replacement ballot paper under this rule, the returning officer shall enter in a list (ñthe list of tende

(a) the name of the voter, and

(b) the details of the unique identifier of the replacement ballot paper issued under this rule.

32. Declaration of identity for replacement ballot papers public constituency

32.1 In respect of an election for a public constituency a declaration of identity must be issued with each replacement ballot paper.

32.2 The declaration of identity is to include a declaration:

(a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and

(b) of the particulars of that member ôs qu the public constituency, or class within a constituency, for which the election is being held.

32.3 The declaration of identity is to include space for:

(a) the name of the voter,

(b) the address of the voter,

(c) the voter ôs signature, and

(d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

33. Receipt of voting documents

33.1 Where the returning officer receives a:

(a) covering envelope, or

(b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper, before the close of the poll, that officer is to open it as soon as is practicable.

33.2 The returning officer may open any ballot paper envelope, but must make arrangements to ensure that no person obtains or communicates information as to:

(a) the candidate for whom a voter has voted, or

(b) the unique identifier on a ballot paper.

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

34. Validity of ballot

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

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

(a) put the declaration of identity if required in a separate packet, and

(b) put the ballot paper aside for counting after the close of the poll.

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

(a) mark the ballot paper ñdisqualifiedò,

(b) if there is a declaration of identity accompanying the ballot paper, mark it as ñdisqualifiedò and attach it the

(c) record the unique identifier on the ba disqualified documentsò); and

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

34.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.

34.5 Where the returning officer is satisfied that rule 34.4 has been fulfilled, he or she is to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.

34.6 Where the returning officer is not satisfied that rule 34.4 has been fulfilled, he or she is to:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) ñdisqualifiedò,

(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents; and

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

35. Declaration of identity but no ballot paper public constituency

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

(a) mark the declaration of identity ñdisqualified

(b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper; and

(c) place the declaration of identity in a separate packet.

36. Sealing of packets

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

(a) the disqualified documents, together with the list of disqualified documents inside it,

(b) the declarations of identity if required,

(c) the list of spoilt ballot papers,

(d) the list of lost ballot papers,

(e) the list of eligible voters, and

(f) the list of tendered ballot papers.

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

PART 6 - COUNTING THE VOTES

37. Interpretation of Part 6

In Part 6 of these rules:

ñ**CONTINUING CANDIDATE**ò means any candidate not deemed to be elected, and not excluded,

ñ**COUNT**ò means all the operations involved in counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of the excluded candidates,

ñ**DEEMED TO BE ELECTED**òmeans deemed to be elected for the purposes of counting of votes but without prejudice to the declaration of the result of the poll,

ñ**MARK**ò means a figure, an identifiable written

ñ**NON-TRANSFERABLE VOTE**ò means a ballot paper:

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

(b) which is excluded by the returning officer under rule 44 (4) below,

ñ**PREFERENCE**ò as used in the following contexts has the meaning assigned below:

(a) ñfirst preferenceò means the figure ñ1ò or clearly indicates a first (or only) preference,

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

(c) in this context, a ñsecond preferenceò mark or word which clearly indicates a second preference, and a third preference by the figure ñ3ò or any ma indicates a third preference, and so on,

ñ**QUOTA**ò means the number calculated in accordance with rule 41 below,

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

ñSTAGE OF THE COUNTò means:

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

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

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

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

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

ñTRANSFER VALUEòmeans the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule 42 below.

38. Arrangements for counting of the votes

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

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

(a) the board of directors and the council of governors of the corporation have approved:

(i) the use of such software for the purpose of counting votes in the relevant election, and

(ii) a policy governing the use of such software, and

(b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

39. The count

39.1 The returning officer is to:

(a) count and record the number of ballot papers that have been returned;

(b) the number of internet voting records, telephone voting records and/or text voting records that have been created; and

(c) count the votes according to the provisions in this Part of the rules.

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

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

40. Rejected ballot papers

40.1 Any ballot paper:

(a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which the figure ñ1ò standing alone first preference for any candidate,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

(d) which is unmarked or rejected because of uncertainty,

shall be rejected and not counted, but the ballot paper shall not be rejected by reason only of carrying the words ñoneò, ñtwoò, ñthr of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.

40.2 The returning officer is to endorse the w which under this rule is not to be counted.

40.3 The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (d) of paragraph (40.1).

40.4 Any text voting record:

(a) on which the figure ñ1ò standing alone i preference for any candidate, or

(b) on which anything is written or marked by which the voter can be identified except the unique identifier

.

40.5 The returning officer is to endorse the w record which under this rule is not to be counted.

40.6 The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (b) of rule STV 40.4.

41. First stage

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

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

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

42. The quota

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

42.2 The result, increased by one, of the division under paragraph (42.1) above (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in th

42.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs 43 to 44 has been complied with.

43. Transfer of votes

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

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

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

43.2 The returning officer is to count the number of ballot papers in each parcel referred to in paragraph (43.1) above.

43.3 The returning officer is, in accordance with this rule and rule 44 below, to transfer each sub-parcel of ballot papers referred to in paragraph (43.1) (a) to the candidate for whom the next available preference is given on those papers.

43.4 The vote on each ballot paper transferred under paragraph (43.3) above shall be at a value (ñthe transfer valueò) which:

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

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

decimal places (ignoring the remainder if any).

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

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

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

43.6 The returning officer is, in accordance with this rule and rule 44 below, to transfer each sub-parcel of ballot papers referred to in paragraph (43.5) (a) to the candidate for whom the next available preference is given on those papers.

43.7 The vote on each ballot paper transferred under paragraph (43.6) shall be at:

(a) a transfer value calculated as set out in paragraph (43.4) (b) above, or

(b) at the value at which that vote was received by the candidate from whom it is now being transferred, whichever is the less.

43.8 Each transfer of a surplus constitutes a stage in the count.

43.9 Subject to paragraph (43.10), the returning officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

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

(a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

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

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

44. Supplementary provisions on transfer

44.1 If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if:

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

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

44.2 The returning officer shall, on each transfer of transferable papers under rule 43 above:

(a) record the total value of the votes transferred to each candidate,

(b) add that value to the previous total of votes recorded for each candidate and record the new total,

(c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and

(d) compare:

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

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

44.3 All ballot papers transferred under rule 43 or 44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

44.4 Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule 43 or 44 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a nontransferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

45. Exclusion of candidates

45.1 If:

(a) all transferable papers which under the provisions of rule 43 above (including that rule as applied by paragraph (45.11) below) and this rule are required to be transferred, have been transferred, and

(b) subject to rule 46 below, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (45.12) below applies, the candidates with the then lowest votes).

45.2 The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (45.1) above into two sub-parcels so that they are grouped as:

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

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

45.3 The returning officer shall, in accordance with this rule and rule 44 above, transfer each sub-parcel of ballot papers referred to in paragraph (45.2)(a) above to the candidate for whom the next available preference is given on those papers.

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

45.5 If, subject to rule 46 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (45.1) above into sub-parcels according to their transfer value.

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

45.7 The vote on each transferable paper transferred under paragraph (45.6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (45.1) above.

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

45.9 After the returning officer has completed the transfer of the ballot papers in the sub-parcel of ballot papers with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot papers with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (45.1) above.

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

(a) record:

(i) the total value of votes, or

(ii) the total transfer value of votes transferred to each candidate,

(b) add that total to the previous total of votes recorded for each candidate and record the new total,

(c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and

(d) compare:

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

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

45.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule 44 and rule 45.

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

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

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

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

46. Filling of last vacancies

46.1 Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

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

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

47. Order of election of candidates

47.1 The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule 45.10 above.

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

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

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

Part 7 – Final proceedings in contested and uncontested elections

48. Declaration of result for contested elections

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

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

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

(i) where the election is held under a proposed constitution pursuant to powers conferred on The Dudley Group NHS Foundation Trust by section 4(4) of the 2006 Act, to the chair of the NHS Trust, or

(ii) in any other case, to the chair of the Trust, and

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

48.2 The returning officer is to make available on request:

(a) the number of first preference votes for each candidate whether elected or not,

(b) any transfer of votes,

(c) the total number of votes for each candidate at each stage of the count at which such transfer took place,

(d) the order in which the successful candidates were elected, and

(e) the number of rejected ballot papers under each of the headings in rule 40.1.

49. Declaration of result for uncontested elections

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

(a) declare the candidate or candidates remaining validly nominated to be elected,

(b) give notice of the name of each candidate who he or she has declared elected to the chair of the Trust, and

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

Part 8 – Disposal of documents

50. Sealing up of documents relating to the poll

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

(a) the counted ballot papers,

(b) t h e b a l l o t p a p e r s e n d o r s e d w i t h ñ r e j e c

(c) the rejected ballot papers, and

(d) the statement of rejected ballot papers

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

(a) the disqualified documents, with the list of disqualified documents inside it,

(b) the declarations of identity,

(c) the list of spoilt ballot papers,

(d) the list of lost ballot papers,

(e) the list of eligible voters, and

(f) the list of tendered ballot papers.

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

(a) its contents,

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

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

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

51. Delivery of documents

51.1 Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 51, the returning officer is to forward them to the chair of the Trust.

52. Forwarding of documents received after close of the poll

52.1 Where:

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

(b) any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or

(c) any applications for replacement ballot papers are made too late to enable new ballot papers to be issued.

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

53. Retention and public inspection of documents

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

52.2 With the exception of the documents listed in rule 54.1), the documents relating to an election that are held by the Trust shall be available for inspection by members of the public at all reasonable times.

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

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

54.1 The Trust may not allow the inspection of, or the opening of any sealed packet containing

(a) any rejected ballot papers, including ballot papers rejected in part,

(b) any disqualified documents, or the list of disqualified documents,

(c) any counted ballot papers,

(d) any declarations of identity, or

(e) the list of eligible voters,

by any person without the consent of the regulator.

54.2 A person may apply to the regulator to inspect any of the documents listed in (54.1), and the regulator may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

54.3 The regulatorôs consent may be on any ter
necessary, including conditions as to:

(a) persons,

(b) time,

(c) place and mode of inspection,

(d) production or opening,

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

54.4 On an application to inspect any of the documents listed in paragraph (54.1):

(a) in giving its consent, the regulator, and

(b) and making the documents available for inspection, the Trust, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established:

(i) that his or her vote was given, and

(ii) that the regulator has declared that the vote was invalid.

Part 9 – Death of a candidate during a contested election

55. Countermand or abandonment of poll on death of candidate

55.1 If, at a contested election, proof is given to the returning off before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

(a) publish a notice stating that the candidate has died, and

(b) proceed with the counting of the votes as if that candidate had been excluded from the count so that:

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

55.2 The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 51.1 (a).

Part 10 – Election expenses and publicity Election expenses

56. Election expenses

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

57. Expenses and payments by candidates

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

(a) personal expenses,

(b) travelling expenses, and expenses incurred while living away from

home, and

(c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of £100 (to be reviewed after first elections).

These expenses are to be met by the candidate, not by the Trust.

58. Election expenses incurred by other persons

58.1 No person may:

(a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidateôs election, w behalf or otherwise, or

(b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

(c) Nothing in this rule is to prevent the Trust from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 60 and 61.

Publicity

59. Publicity about election by the Trust

59.1 The Trust may:

(a) compile and distribute such information about the candidates, and;

(b) organise and hold such meetings to enable the candidates to speak and respond to questions, as it considers necessary.

59.2 Any information provided by the Trust about the candidates, including information compiled by the Trust under rule 61, must be:

(a) objective, balanced and fair,

(b) equivalent in size and content for all candidates (as far as the information provided by the candidates so allows),

(c) compiled and distributed in consultation with all of the candidates standing for election, and

(d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

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

60. Information about candidates for inclusion with voting documents

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

60.2 The information must consist of:

(a) a statement submitted by the candidate of no more than 200 words, and

(b) a passport type photograph of the candidate

if provided by the candidate.

61. Meaning of ñfor the purposes of an electionò

61.1 In this Part, the phrase ñfor the purpose to, or otherwise in connection with, pro election, including the prejudicing of a prospects; and the phrase ñfor the purpo be construed accordingly.

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

Part 11 – Questioning elections and the consequence of irregularities

62. Application to question an election

62.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to the regulator.

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

62.3 An application may only be made to the regulator by:

(a) a person who voted at the election or who claimed to have had the right to vote, or

(b) a candidate, or a person claiming to have had a right to be elected at the election.

62.4 The application must:

(a) describe the alleged breach of the rules or electoral irregularity, and

(b) be in such a form as the regulator may require.

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

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

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

(b) The determination by the person or persons nominated in accordance with Rule 62(7) shall be binding on and shall be given effect by the Trust, the applicant and the Members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.

(c) The regulator may prescribe rules of procedure for the determination of an application including costs.

Part 12 – Miscellaneous

63. Secrecy

63.1 The following persons:

(a) the returning officer,

(b) the returning officerôs staff,

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

(i) the name of any member of the Trust who has or has not been given a ballot paper or who has or has not voted,

(ii) the unique identifier on any ballot paper,

(iii) the candidate(s) for whom any member has voted.

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

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

64. Prohibition of disclosure of vote

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

65. Disqualification

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

(a) a member of the Trust,

(b) an employee of the Trust,

(c) a director of the Trust, or

(d) employed by or on behalf of a person who has been nominated for election.

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

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

(a) the delivery of the documents in rule 24, or

(b) the return of the ballot papers and declarations of identity, the returning officer may extend the time between the publication of the notice of the poll and the close of the poll, with the agreement of the regulator.

67. Effect of administrative or clerical errors on election

67.1 Elections shall not be invalidated by any administrative or clerical error on the part of the Trust or any acts or omissions of the returning officer or the independent scrutineer acting in good faith on the basis of any such error.

ANNEX 6 ï ADDITIONAL PROVISIONS ï COUNCIL OF GOVERNORS

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

1. they are a director of the Trust, or a governor or director of another NHS Body, or of an independent/private sector health care provider. These restrictions do not apply to appointed partnership governors;

2. they are under sixteen years of age;

3. being a member of a public constituency, they were or were entitled to be a member of one of the classes of the staff constituency at any point during the preceding two years;

4. being a member of one of the public constituencies, they refuse to sign a declaration in the form specified by the Council of Governors of the particulars of their qualification to vote as a member of the Trust, and that they are not prevented from being a member of the Council of Governors;

5. they are the subject of a sex offender order;

6. they have within the preceding two years been dismissed, otherwise than by reason of redundancy, expiry of a fixed term contract, disability, ill health or age from any paid employment with a health service body. In other cases of dismissal, such as capability, an individual may be permitted to become a governor, at the discretion of the Trust, and subject to full disclosure of the relevant circumstances and facts concerning that dismissal;

7. they are a person whose tenure of office as the chair or as a member or director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;

8. they have had their name removed, by a direction under section 46 of the 1977 NHS Act from any list prepared under Part II of that Act or have otherwise been disqualified or suspended from any healthcare profession, and have not subsequently had their name included in such a list or had their qualification re-instated or suspension lifted (as applicable);

9. they are incapable by reason of mental disorder, illness or injury of managing and administering their property and affairs;

10. they are an elected governor and they cease to be a member of the constituency or class by which they were elected. This may include, but is not restricted to, the reasons for ceasing to be a member identified in Annex 9;

11. they are a non-elected governor and they cease to be sponsored by their organisation. A person who ceases to be a governor could continue to attend the Council of Governors in an advisory capacity, if the Council of Governors so wishes, although they would not have voting rights;

12. they are the spouse, partner, parent or child of a member of the Board of Directors of the Trust;

13. they are a member of a local authorityôs covering health matters;

14. they are a member of the Healthwatch Organisation relating to this Foundation Trust;

A person may cease to be a governor upon the resolution of more than half of the Council of Governors voting if:

15. they fail to or indicate that they are unwilling to act in the best interests of the Trust and in accordance with The Seven Principles of Public Life laid out by the Committee on Standards in Public Life in its First Report as amended from time to time.

16. they fail to agree (or, having agreed, fail) to abide by the values of the Trust Principles set out in Annex 10.

17. they fail, within a reasonable time of being requested to undertake mandatory training, as designated by the Trust from time to time, in respect of their role and function.

18. they consistently and unjustifiably fail to maintain attendance at Full Council of Governor meetings as defined within the Code of Conduct for Governors.

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

(Paragraph 17)

Standing Orders of the Council of Governors

January 2023 (reviewed)

CONTENTS

1. INTRODUCTION
Statutory Framework

2. INTERPRETATION
3. THE COUNCIL OF GOVERNORS
Composition of the Council
Role of the Chair
Role and Responsibilities of the Council of Governors

4. MEETINGS OF THE COUNCIL
Admission of the Public
Calling Meetings
Notice of Meetings
Setting the Agenda
Petitions
Chair of the Meeting
Notices of Motion
Withdrawal of Motion or Amendments
Motion to Rescind a Resolution
Motions
Chairô s R u l i n g
Voting

1. INTRODUCTION

Statutory Framework

The Dudley Group NHS Foundation Trust is a statutory body which became a public benefit corporation following its approval as an NHS Foundation Trust by the Independent Regulator of NHS Foundation Trusts (Independent Regulator) pursuant to the National Health Service Act 2006 (the 2006 Act).

The principal places of business of the Trust are:

- Russells Hall Hospital, Pensnett Road, Dudley, West Midlands, DY1 2HQ
- Corbett Outpatients Centre, Vicarage Road, Stourbridge, West Midlands, DY8 4JB
- Guest Outpatients Centre, Tipton Road, Dudley, West Midlands, DY1 4SE

NHS foundation trusts are governed by Acts of Parliament, mainly the 2006 and 2012 Act, by their constitutions and by terms of their authorisation granted by the Independent Regulator (Regulatory Framework).

The functions of the Trust are conferred by the Regulatory Framework. As a body corporate it has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable. The Trust also has a common law duty as a Bailee for patients' property held by the Trust on behalf of patients.

The Regulatory Framework requires the Council of Governors to adopt Standing Orders (SOs) for the regulation of its proceedings and business.

2. INTERPRETATION

2.1 Save as permitted by law and subject to the Constitution, at any meeting, the chair of the Trust shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the trust secretary).

2.2 Any expression to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in the interpretation and in addition:

ñBOARD OF DIRECTORSò means the chair, executive and non-executive directors of the Trust collectively as a body.

ñCHAIR OF THE BOARDò or Chair of the Trust is the appointed by the Council of Governors to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expressions **ñTHE CHAIR OF THE BOARDò** and **ñTHE CHAIR OF THE TRUSTò** shall be deemed to

include the deputy chair of the Trust if the chair is absent from the meeting or is otherwise unavailable.

ñ**CHIEF EXECUTIVE**ò means the chief executive officer of the Trust.

ñ**COMMITTEE**ò means a committee of the Council of Governors

ñ**COMMITTEE MEMBERS**ò means the persons formally appointed to chair or sit on specific committees.

ñ**CONSTITUTION**ò means the constitution of the Foundation Trust.

ñ**COUNCIL OF GOVERNORS**ò means the Council of Governors of the Trust as defined in the Constitution.

ñ**DEPUTY CHAIR**ò means the non-executive director appointed by the Council of Governors to take on the c h a iduties if the chair is absent for any reason.

ñ**EXECUTIVE DIRECTOR**ò means a member of the Board of Directors who holds an executive office of the Trust.

ñ**INDEPENDENT REGULATOR**ò means NHS England

ñ**MEMBER OF THE COUNCIL**ò means a governor of the Trust. (Member of the Council in relation to the Council of Governors does not include the chair).

ñ**NON-EXECUTIVE DIRECTOR**ò means a member of the Board of Directors who does not hold an executive office with the Trust. These may be referred to as voting and non-voting where appropriate.

ñ**OFFICER**ò means employee of the Trust or any other person holding a paid appointment or office with the Trust.

ñ**SECRETARY TO THE TRUST**ò means a person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the chair and monitor t h e T r u s t ô s c o m p l i a n c e w i t h t h e R e g u l a standing orders.

ñ**SOs**ò means these Standing Orders.

"TRUST" means The Dudley Group NHS Foundation Trust.

3. THE COUNCIL OF GOVERNORS

3.1 Composition of the Council of Governors

3.1.1 In accordance with the Constitution of the Foundation Trust, the composition of the Council of Governors shall be reviewed from time to time and currently comprises:

- 13 public governors
- 8 staff governors
- 1 local primary care representative
- 1 local authority governor
- 1 university governor
- 1 voluntary organisation governor

3.2 Role of the Chair

3.2.1 The chair is not a member of the Council of Governors. However, under the Regulatory Framework, he or she presides at meetings of the Council of Governors and has a casting vote.

3.2.2 Where the chair of the Trust has died or has ceased to hold office, or where he or she has been unable to perform his or her duties as chair owing to illness or any other cause, the deputy chair shall act as chair 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 his or her duties, be taken to include references to the deputy chair.

3.3 Role and Responsibilities of the Council of Governors

3.3.1 The 2006, 2012 and 2022 Act provides that all the powers of the Foundation Trust are to be exercised by its directors. The Council of Governors does not have the right to veto decisions made by the Board of Directors.

3.3.2 The Council of Governors, and individual governors, are not empowered to speak on behalf of the Trust and must seek the advice and views of the chair concerning any contact from the media or any invitation to speak publicly about the Trust or their role within it. For the avoidance of doubt, in this context the chair acts as chair of the Trust not as chair of the Council of Governors and in his or her absence governors should seek the advice and views of the deputy chair of the Trust or another non-executive director of the Trust.

4. MEETINGS OF THE COUNCIL

4.3.2 Want of service of the notice on any Member of the Council shall not affect the validity of a meeting.

4.3.3 In the case of a meeting called by members of the Council in default of the chair, the notice shall be signed by those Members of the Council and no business shall be transacted at the meeting other than specified in the notice.

4.3.4 Agendas will be sent to Members of the Council before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three clear days before the meeting, save in emergency.

4.3.5 Before each meeting of the Council a public notice of the time and place of the meeting shall be d at least three clear days before the meeting.

4.4 Setting the Agenda

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

4.4.2 A Member of the Council desiring a matter to be included on an agenda shall make his or her request in writing to the chair at least 10 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may only be included on the agenda at the discretion of the chair.

4.5 Petitions

4.5.1 Where a petition has been received by the Trust, the chair of the Trust shall include the petition as an item for the agenda of the next Council meeting.

4.6 Chair of Meeting

4.6.1 At any meeting of the Council, the chair of the Trust, if present, shall preside. If the chair is absent from the meeting the deputy chair shall preside. If the chair and deputy chair are absent such non-executive director as the Members of the Council present shall choose shall preside. Where the chair of the Trust, deputy chair and other non-executive directors are all absent or have a conflict of interest, the Council of Governors shall select one of their number to preside at the meeting. The person presiding at the meeting shall have a casting vote.

4.6.2 If the chair is absent temporarily on the grounds of a declared conflict of interest the deputy chair, if present, shall preside. If the chair and deputy chair are absent, or are disqualified from participating, such non-executive director as the Members of the Council present shall choose, shall preside. Where the chair, deputy chair, lead governor and other non-executive directors are all absent or have a conflict of interest, an appropriate representative will be appointed from amongst the Council of Governors to preside at the meeting and have a casting vote.

4.7 Notices of Motion

4.7.1 A Member of the Council desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda, subject to Council Standing Order 4.11

4.8 Withdrawal of Motion or Amendments

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

4.9 Motion to Rescind a Resolution

4.9.1 Notice of a 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 Member of the Council who gives it and also the signature of four other Council Members. When any such motion has been disposed of by the Council, it shall not be competent for any member 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.

4.10 Motions

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

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

- an amendment to the motion

- the adjournment of the discussion or the meeting
- that the meeting proceed to the next business (*)
- the appointment of an ad hoc committee to deal with a specific item of business
- that the motion be now put. (*)
- a motion resolving to exclude the public under SO 4.1.1.

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

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

4.11 **Chairôs ruling**

Statements of Members of the Council made at meetings of the Council 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.

4.12 **Voting**

4.12.1 If a question is put to the vote, it shall be determined by a majority of the votes of the Members of the Council present and voting on the question and, in the case of number of votes for and against a motion being equal, the chair of the meeting shall have a second or casting vote.

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

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

4.12.4 If a member of the Council so requests, their vote shall be recorded by name upon any vote (other than paper ballot).

4.12.5 In no circumstances may an absent member of the Council vote by proxy. Absence is defined as being absent at the time of the vote.

4.13 **Minutes**

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

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

4.13.3 Minutes shall be circulated in acco
wishes. Minutes will be published on the Trust website.

4.14 **Suspension of Standing Orders**

4.14.1 Except where this would contravene any statutory provision or any direction made by the independent regulator, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Council are present, including two public governors, and that a majority of those present vote in favour of suspension.

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

4.14.3 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 Council.

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

4.15 **Variation and Amendment of Standing Orders**

4.15.1 These Standing Orders shall be amended only if:

- a notice of a motion under Standing Order 4.7 has been given; and
- no fewer than half the total of the corporationôs governors vote in favour of amendment; and
- at least two-thirds of the council members are present; and
- the variation proposed does not contravene a statutory provision or direction made by the independent regulator.

4.16 **Record of Attendance**

4.16.1 The names of the chair and Members of the Council present at the meeting shall be recorded in the minutes. Apologies received from Members of the Council shall also be recorded in the minutes.

4.17 **Quorum**

4.17.1 No business shall be transacted at a meeting unless at least eight governors are present of which at least five are public governors. The term ñpresentò in this con present in person, or participating in the meeting through electronic means, or else by telephone.

4.17.2 If a member of the Council has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 6, 7 or 8) he or she shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

5. COMMITTEES

5.1 Subject to the Regulatory Framework and such guidance as may be issued by the independent regulator, the Council may, and if so required by the independent regulator, shall, appoint committees of the Council to assist the Council in the proper performance of its functions under the Constitution and the Regulatory Framework, consisting wholly of the chair and members of the Council of Governors.

5.2 A committee appointed under this regulation may, subject to such guidance as may be given by the independent regulator or conditions imposed by the Council, appoint sub-committees consisting wholly of members of the committee.

5.3 The Standing Orders of the Council, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Council chairò. is lrt owlbiec hr e as a reference to the chair of the Committee as the context permits, and the me tmbe e m õf the Council ò is to be member of the committee also as the context permits.

5.4 Subject to Standing Order 5.5, each sub-committee shall have such terms of reference and power and be subject to such conditions (as to reporting back to the Council), as the Council shall decide and shall be in accordance with the Regulatory Framework and any guidance issued by the Independent Regulator. Such terms of reference shall have effect as if incorporated into the Standing Orders.

5.5 The Council may not delegate any decision-making or executive powers to any committee or sub-committee.

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

5.7 The committees and sub-committees established by the Council shall be such committees as are required to assist the Council in discharging its responsibilities.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

6.1 Declaration of Interests

6.1.1 The Regulatory Framework requires Council Members to declare interests which are relevant and material to the Council of which they are a member. All existing Council Members should declare such interests. Any Council Members appointed subsequently should do so on appointment.

6.1.2 Interests which should be regarded as defined in the Trustôs Constitution a

- any pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors

6.1.3 At the time Council Membersô interest recorded in the Council minutes. Any changes in interests should be declared at the next Council meeting following the change occurring.

6.1.4 Council Membersô direct or indirect interests of co do business with the NHS should be pu Report. The information should be kept up to date for inclusion in succeeding annual reports.

6.1.5 If during the course of any meeting, a conflict of interest arises as defined at para 6.1.2, it is the responsibility of the chair to ensure the meeting is held in such a way as to ensure free and full debate, without undue or improper influence from any interested party, and that all parties present are fully aware of the interests of all other governors of the Foundation Trust.

6.1.6 In pursuance of the above the chair may take any or all of the following steps;

1. The chair may remind the meeting of the role and responsibility of the governors, as set out in the Constitution and these Standing Orders.

2. The chair may require any governor to remind the meeting of their interest.

3. The chair may require any governor that the chair considers has a conflict to play no part during any discussion on the relevant issue.

4. The chair may require any governor that the chair considers has a conflict to withdraw from the meeting room during the relevant discussion or debate.

Before taking the steps 3 or 4, the chair shall allow representations from the governor concerned. The decision of the chair on these matters is final.

6.1.7 If any person believes that any governor has any conflict of interest that has not been declared or is trying to exert undue or improper influence on any other person in any way, in any matter connected with the Foundation Trust, that person may make representations to the Trust chair. Representations may be verbal or in writing and shall detail the nature of the alleged conflict or undue influence complained of.

6.1.8 Upon receipt of such a representation, the chair will communicate with the governor concerned, and allow that governor an opportunity to respond fully to the representation. Upon receipt of the response, he or she shall have the range of options as detailed at para. 6.1.6 above.

6.2 Register of Interests

6.2.1 The trust secretary will ensure that a Register of Interests is established to record formally declarations of interests of Council Members. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by Council Members, as defined in Standing Order 6.1.2.

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

6.2.3 The Register will be available to the public and the trust secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

6.2.4 In establishing, maintaining, updating and publicising the Register, the Trust shall comply with all guidance issued from time to time by the independent regulator.

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

7.1 Subject to the following provisions of this Standing Order, if the chair or another Member of the Council has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

7.2 The Council may exclude the chair (or member of the Council) from a meeting of the Council while any contract, proposed contract or other matter in which they have pecuniary interest, is under consideration.

7.3 For the purpose of this Standing Order the chair or member of the Council shall be treated, subject to SO 7.4, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

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

or

(b) they are a partner of or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration. And in the case of married persons living together or

persons living together as partners, the interest of one partner shall, if known to the other, be deemed for the purposes of this Standing Order to be also the interest of that partner.

7.4 The chair or a member of the Council shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

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

(b) of an interest in a company, body or person with which they are connected as mentioned in SO 7.3 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member of the Council in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

7.5 Where a Governor:

(a) has an indirect pecuniary interest in a contract, proposed contract, or other matter by reason only of a beneficial interest in securities of a company or other body: and,

(b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less: and,

(c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he or she has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class.

This Standing Order shall not prohibit them from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it without prejudice however to them to disclose their interest.

7.6 The Standing Order applies to a committee or sub-committee and to a joint committee as it applies to the Council and applies to a member of the Council of any such committee or sub-committee.

8. STANDARDS OF BUSINESS CONDUCT POLICY

8.1 Governors should comply with the Trust Constitution, the NHS principles of conduct, as defined by the NHS Leadership Academy, the NHS Constitution, the Code of Governance published by the NHS England, the requirements of the Regulatory Framework, the Trustô s Code of Conduct for Governors, and any guidance and directions issued by the NHS England . In addition, they must adhere to the T r u s t P r i n c i p l e s, given as Annex 10 to the Foundation Trust Constitution a n d t h e T r u s t ô s P o l i c y o n B u s i n e s

8.2 **Interest of Governors in Contracts**

8.2.1 If it comes to the knowledge of a governor that a contract in which they have any pecuniary interest not being a contract to which they are a party, has been, or is proposed to be, entered into by the Trust they shall, at once, give notice in writing to the trust secretary of the fact that they are interested therein. In the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

8.2.2 A governor should also declare to the trust secretary any other employment or business or other relationship of theirs, or of a cohabitating spouse, which might reasonably be predicted could conflict with the interests of the Trust. Such declarations shall be recorded in the Register of Interests.

8.3 **Canvassing of and Recommendations by Members of the Council in Relation to Appointments**

8.3.1 Canvassing of governors of the Trust or of any Committee of the Council of Governors directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment.

8.3.2 A Member of the Council shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member of the Council from giving written testimonial o f a c a n d i d a t e ô s a b i l i t y, e x p e r i e n c to the Trust.

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

8.4 Relatives of Members of the Council or Officers

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

8.4.2 The chair and every Member of the Council and officers of the Trust shall disclose to the chief executive any relationship between him or herself and a candidate of whose candidature that Member of the Council or officer is aware.

8.4.3 On appointment, members of the Council should disclose to the Council whether they are related to any other member of the Council or holder of any office in the Trust. Such declarations shall be added to the Register of Interests

8.4.4 Where the relationship to a Member of the Council of the Trust is disclosed, the Standing Order headed Disability of Chair and Members of the Board in proceedings on account of pecuniary interest (SO 7) shall apply.

9. MISCELLANEOUS

9.1 Standing Orders to be given to Members of the Council

9.1.1 It is the duty of the trust secretary to ensure that existing members of the Council and all new appointees are notified of and understand their responsibilities within these Standing Orders. New members of the Council shall be informed in writing and shall receive copies where appropriate in Standing Orders.

9.2 Review of Standing Orders

9.2.1 Standing Orders shall be reviewed annually. The requirements for review extend to all documents having the effect as if incorporated in Standing Orders.

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

(Paragraph 32)

Standing Orders for the Practice and Procedure of the Board of Directors

January 2023 *(reviewed)*

FOREWORD

NHS foundation trusts are obliged by NHS England (NHSE) to have Standing Orders for their Board of Directors in relation to the disclosure of interests and arrangements for exclusion of a director disclosing an interest from discussion or consideration of the matter in respect of which an interest has been disclosed. It is also suggested by NHSE that Standing Orders be adopted relating practice and procedure.

The following Standing Orders and attached Scheme of Delegation, provide a regulatory framework for the business conduct of the Trust. They fulfill the dual role of protecting the Trust's interests and protecting staff from any possible accusation that they have acted less than properly.

The Standing Orders and Scheme of Delegation provide a comprehensive business framework. All executive directors and voting and non-voting non-executive directors, and all members of staff, should be aware of the existence of these documents and, where necessary, be familiar with the detailed provisions.

CONTENTS

FOREWORD

INTRODUCTION

Statutory Framework
NHS Framework
Delegation of Powers
Note

1. INTERPRETATION

2. THE TRUST

Composition of the Trust
Appointment of the Chair and Directors
Terms of Office of the Chair and Directors
Appointment of Deputy Chair
Powers of Deputy Chair
Joint Directors

3. MEETINGS OF THE TRUST
Calling Meetings
Notice of Meetings
Setting the Agenda
Chair of Meeting
Annual Public Meeting (Annual Members Meeting)
Notices of Motion
Withdrawal of Motion or Amendments
Motion to Rescind a Resolution
Motions
Chair's Ruling
Voting
Minutes
Joint Directors
Suspension of Standing Orders
Variation and Amendment of Standing Orders
Record of Attendance
Quorum

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION
Emergency Powers
Delegation to Committees
Delegation to Officers

5. COMMITTEES
Appointment of Committees
Confidentiality

6. DECLARATIONS OF INTEREST AND REGISTER OF INTEREST
Declaration of Interest
Register of Interests

7. DISABILITY OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

8. STANDARDS OF BUSINESS CONDUCT
Policy
Interest of Officers in Contracts
Canvassing of, and Recommendations by, Directors in Relation to appointments
Relatives of Directors or Officers

9. TENDERING AND CONTRACT PROCEDURE
Duty to comply with Standing Orders
Procurement Act 2023

Formal Competitive Tendering
Quotations
Where tendering or competitive quotation is not required
Private Finance
Contracts
Personnel and Agency or Temporary Staff Contracts
Healthcare Services Contracts
Other Contracts for Services Provided by the Trust
Cancellation of Contracts
Determination of Contracts for Failure to Deliver Goods or Materials
Contracts Involving Funds Held on Trust

10. DISPOSALS

11. IN-HOUSE SERVICES

12. CUSTODY OF SEAL AND SEALING OF DOCUMENTS
Custody of Seal
Sealing of Documents
Register of Sealing

13. SIGNATURE OF DOCUMENTS

14. MISCELLANEOUS
Standing Orders to be given to Directors and Officers
Documents having the Standing of Standing Orders
Review of Standing Orders

Annex - TENDERING PROCEDURE

1. Invitation to Tender
2. Receipt, Safe Custody and Record of Formal Tenders
3. Opening Formal Tenders
4. Admissibility and Acceptance of Formal Tenders
5. Lists of Approved Firms

INTRODUCTION

Statutory Framework

The Dudley Group NHS Foundation Trust (the Trust) is a body corporate which became a public benefit corporation following its approval as an NHS Foundation Trust by the Independent Regulator of NHS Foundation Trusts (Independent Regulator) pursuant to the National Health Service Act 2006 (the 2006 Act).

The principal places of business of the Trust are Russells Hall Hospital, Corbett Outpatients Centre, Guest Outpatients Centre and the Community of Dudley.

NHS Foundation Trusts are governed by Acts of Parliament, mainly the 2006, 2012 and 2022 Health Acts, by their constitutions and by the terms of their authorisation granted by the Independent Regulator (the Regulatory Framework).

The functions of the Corporation are conferred by the Regulatory Framework.

As a body corporate the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable. The Trust also has a common law duty as a Bailee for patients' property held by the Trust on behalf of patients.

Delegation of Powers

Under the Standing Orders relating to the Arrangements for the Exercise of Functions (SO 4) the Board exercises its powers to make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee appointed by virtue of SO 5 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit. Delegated Powers are covered in a separate document (Scheme of Delegation). That document has effect as if incorporated into the Standing Orders.

1 INTERPRETATION

1.1 Save as permitted by law and subject to the Constitution, at any meeting the chair of the Trust shall be the final authority on the interpretation of Standing Orders (on which he or she should be advised by the trust secretary).

1.2 Any expression to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in this interpretation and where there is a conflict between the 2006, 2012 and 2022 Acts and another legislative provision the 2006 Act interpretation shall prevail (unless, in either case, the context otherwise requires) and in addition:

"ACCOUNTING OFFICER" shall be the officer responsible and accountable for funds entrusted to the Trust. They shall be responsible for ensuring the proper stewardship of public funds and assets and performing the functions delegated to him or her by the Constitution in relation to the Trustôs accounts. For the executive.

"TRUST" means The Dudley Group NHS Foundation Trust.

ñ**BOARD OF DIRECTORS**ò and (unless the context otherwise requires) "**BOARD**" shall mean the chair and other non-executive directors, and the executive directors appointed by the relevant committee of the Trust.

ñ**BOARD OF GOVERNORS**ò means the Council of Governors of the Trust.

"BUDGET" shall mean a resource, expressed in financial terms, and proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust;

"CHAIR" is the person appointed by the Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The Trustôs chair of the Trust shall be deputy chair of the Trust if the chair is absent from the meeting or is otherwise unavailable.

"CHIEF EXECUTIVE" shall mean the chief executive officer of the Trust.

"COMMITTEE" shall mean a committee of the Board of Directors.

"COMMITTEE MEMBERS" shall be the directors formally appointed by the Trust to sit on or to chair specific committees.

ñ**CONSTITUTION**ò means this Constitution of the Trust and its annexes.

"DEPUTY CHAIR" means the non-executive director appointed by the Council of Governors to support the chair and take on the chairô s d u t i e s if the chair is absent for any reason.

"DIRECTOR" shall mean a person appointed as a director in accordance with the Constitution and includes the chair.

"FINANCE DIRECTOR" shall mean the chief finance officer of the Trust.

"FUNDS HELD ON TRUST" shall mean those funds which the Trust holds on trust at its date of authorisation as an NHS Foundation Trust or chooses subsequently to accept. Such funds may or may not be charitable.

"MOTION" means a formal proposition to be discussed and voted on during the course of a meeting.

"NOMINATED OFFICER" means an officer charged with the responsibility for discharging specific tasks within Standing Orders (SOs) and Standing Financial Instructions (SFIs).

"OFFICER" means an employee of the Trust.

"SFIs" means Standing Financial Instructions.

"SOs" means Standing Orders.

ñSECRETARY TO THE TRUSTò means a person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the chair a n d m o n i t o r t h e T r u s t ô s c o Regulatory Framework and these standing orders.

2. THE TRUST

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

2.2 The Trust has the functions conferred on it by the Regulatory Framework.

2.3 All funds received in trust shall be in the name of the Trust as corporate trustee. In relation to funds held on trust, powers exercised by the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.

2.4 Directors acting on behalf of the Trust as a corporate trustee are acting as quasi-trustees. Accountability for charitable funds held on trust is to the Charity Commission.

2.5 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board in formal session. Those powers and decisions delegated by the Board are set out in the "Scheme of Delegation", which has effect as if incorporated into the Standing Orders.

2.6 **Composition of the Board** - In accordance with, but always subject to, the provisions of the Constitution, the composition of the Board shall be:

2.6.1 The chair of the Trust

2.6.2 between 5 and 8 voting non-executive directors excluding the chairperson

2.6.3 between 5 and 8 voting executive directors including:

- The chief executive (and accounting officer)
- The director of finance
- A medical or dental practitioner
- A registered nurse
- The chief operating officer (director of operations)
- The chief of People (director of HR)
- The chief information officer.

2.7 **Appointment of the chair and other voting and non-voting non-executive Directors** - The chair and the other voting and non-voting non-executive Directors are appointed by the Council of Governors.

2.8 **Appointment of the executive directors** - The chief executive is appointed by the non-executive Directors, subject to the approval of the Council of Governors. The other executive directors are appointed by a committee consisting of the chair, the other non-executive directors, and the chief executive.

2.9 **Terms of office of the chair and other directors** - The regulations setting out the period of tenure of office of the chair and other directors and for the termination or suspension of office of the chair and other directors are contained in the Constitution of the Trust.

2.10 **Appointment of deputy chair** - Subject to SO 2.11 below, the Council of Governors will appoint one of the non-executive directors to be deputy chair, for such period, not exceeding the remainder of their term as they may specify on appointing then.

2.11 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 Council of Governors may thereupon appoint another non-executive director as deputy chair in accordance with the provisions of Standing Order 2.10

2.12 **Powers of deputy chair** - Where the chair of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as chair owing to illness or any other cause, the deputy chair shall act as chair 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 their duties, be taken to include references to the deputy chair.

2.13 **Appointment and powers of the senior independent director** - Subject to SO 2.14 below, the chair (in consultation with the non-executive directors and the Council of Governors) may appoint any director, who is also a non-executive director, to be the senior independent director, for such period, not exceeding the remainder of their term as a non-executive director, as they may specify on appointing them. The senior independent director shall perform the role set out in the Trust's "Senior Independent Director Job Description", as amended from time to time by resolution of the Board.

2.14 Any non-executive director so appointed may at any time resign from the office of senior independent director by giving notice in writing to the chair. The chair (in consultation with the non-executive directors and the Council of Governors) may thereupon appoint another member of the Board as senior independent director in accordance with the provisions of Standing Order 2.13.

2.15 The role of the deputy chair will include deputising for the chair during absences and other duties as contained within the deputy chair job description that may be reviewed from time to time. The senior independent director will act as a conduit for concerns to be raised by Governors if the usual mechanisms of contact and discussion have been exhausted and making arrangements for the annual evaluation of the performance of the chair. The process to achieve this evaluation and its outcome will be agreed with and reported to the Council of Governors.

2.16 If the senior independent director is also the deputy chair and they are acting in the capacity of the chair, another non-executive director will be identified by the Board of Directors as fulfilling the role of senior independent director on a temporary basis. Where there is a need for the deputy chair to act in the capacity of chair for an extended period, the Board of Directors will agree the appointment of a different senior independent director with the Council of Governors, until the deputy chair is able to resume this role.

3. MEETINGS OF THE TRUST

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

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

3.3 **Notice of Meetings** - Before each meeting of the Board, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the chair or by an officer of the Trust authorised by the chair to sign on their behalf shall be delivered to every director, so as to be available to them at least three clear working days before the meeting.

3.4 Lack of service of the notice on any director shall not affect the validity of a meeting.

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

3.6 With regard to meetings called under the provisions of Standing Order 3.5 above failure to serve such a notice on more than three directors will invalidate the meeting. A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post.

3.7 **Setting the Agenda** - The Board may determine that certain matters shall appear on every agenda for a meeting of the Board and shall be addressed prior to any other business being conducted.

3.8 A director desiring a matter to be included on an agenda shall make their request in writing to the chair at least 10 clear days before the meeting, subject to Standing Order 3.3. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the chair.

3.9 **Chair of Meeting** - At any meeting of the Board, the chair, if present, shall preside. If the chair is absent from the meeting the deputy chair, if there is one and they are present, shall preside. If the chair and deputy chair are absent such non-executive director as the directors present shall choose shall preside.

3.10 If the chair is absent from a meeting temporarily on the grounds of a declared conflict of interest the deputy chair, if present, shall preside. If the chair and deputy chair are absent, or are disqualified from participating, such non-executive director as the directors present shall choose shall preside.

3.11 **Notices of Motion** - A director of the Board desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda subject to Standing Order 3.5, and subject further to Standing Order 3.16 below.

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

3.13 **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 director(s) who gives it and also the signature of three other directors. When any such motion has been disposed of by the Board, it shall not be competent for any director other than the chair to propose a motion to the same effect within 6 months; however, the chair may do so if they consider it appropriate.

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

3.15 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.

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

3.16 **Chairôs Ruling** - Statements of directors made at meetings of the Board 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, relevance, regularity and any other matters shall be observed at the meeting.

3.17 **Voting** - Every question at a meeting shall be determined by a majority of the votes of the directors present and voting on the question. If there is an equality of votes, the chair shall have a further or casting vote.

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

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

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

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

3.22 **Minutes** - The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing.

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

3.24 Minutes shall be circulated in accordance with directors' wishes.

3.25 **Waiver of Standing Orders** - Except where this would contravene any statutory provision or any guidance issued by the Independent Regulator, any one or more of the Standing Orders may be waived at any meeting, provided that at least two-thirds of the Board are present,

including one executive director and one non-executive director, and that a majority of those present vote in favour of suspension.

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

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

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

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

3.30 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the directors.

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

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

3.33 **Variation and Amendment of Standing Orders** - These Standing Orders shall be amended only if:

- a notice of motion under Standing Order 3.11 has been given; and
- no fewer than half of the non-executive directors vote in favour of amendment; and
- at least two-thirds of the directors are present; and
- the variation proposed does not contravene a statutory provision or guidance issued by the Independent Regulator.

3.34 **Record of Attendance** - The names and titles of the directors present at the meeting shall be recorded in the minutes.

3.35 **Quorum** - No business shall be transacted at a meeting of the Trust unless at least one-third of the whole numbers of the directors are present including at least one executive director and one non-executive director. The term ñpresentò in this context person, or participating in the meeting through electronic means, or else by telephone.

3.36 If a director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 6 or 7) he or she shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one executive director to form part of the quorum shall not apply where the executive directors are excluded from a meeting (for example, when the Board considers recommendations of the Remuneration Committee).

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 Subject to the Regulatory Framework and such guidance as may be issued by the Independent Regulator, the Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee, appointed by virtue of SO 5.1 or 5.2 below or by a director or an officer of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.

4.2 **Emergency Powers** - The powers of the Board may in emergency be exercised by an Urgent Purposes Committee comprised of the chief executive and the chair. In the absence of the chair the deputy chair or another voting non-executive director nominated by the chair shall be present. In the absence of the chief executive another voting executive director nominated by the chief executive shall be present. Prior to taking a decision the Committee shall consult with the Chair of a relevant committee. For the purpose of this standing shall have the same meaning as Standing Order 3.35, and voting shall be subject to the provisions of Standing Order 3.17. No other Standing Orders shall apply to decisions taken under Emergency Powers. The exercise of such powers by the Committee shall be reported to the next formal meeting of the Board for minuting.

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

4.4 The chief executive shall prepare a **Scheme of Delegation** (Annex 11) identifying their 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 Delegation which shall be considered and approved by the Board as indicated above.

4.5 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the finance director or other executive director to provide information and advise the Board in accordance with any statutory requirements or guidance issued by the Independent Regulator.

4.6 The arrangements made by the Board as set out in the "Scheme of Delegation" shall have effect as if incorporated in these Standing Orders.

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

5. COMMITTEES

5.1 **Appointment of Committees** - Subject to the Regulatory Framework and any guidance as may be issued by the Independent Regulator; the Board may and, if so required by the Independent Regulator, shall appoint committees of the Board, consisting wholly of directors of the Board.

5.2 A committee appointed under SO 5.1 may, subject to any guidance issued by the Independent Regulator and to any restriction imposed by the Board, appoint sub-committees/sub-groups consisting wholly of one or more members of the committee.

5.3 The Standing Orders of the Board, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Board.

5.4 Each such committee or sub-committee/ sub-group shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.

5.5 Committees may not delegate their executive powers to a sub-committee/subgroup unless expressly authorised by the Board.

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

5.7 **Confidentiality** - A member of a committee shall not disclose a matter dealt with by, or brought before, the committee without its permission until the committee shall have reported to the Board or shall otherwise have concluded on that matter.

5.8 A director shall not disclose any matter reported to the Board or otherwise 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.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

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

6.2 Interests which should be regarded as "relevant and material" are to be interpreted in accordance with the Regulatory Framework:

a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies).

b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.

c) Majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS.

d) A position of trust in a charity or voluntary organisation in the field of health and social care.

e) Any connection with a voluntary or other organisation contracting for NHS services.

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

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

6.3 If directors have any doubt about the relevance of an interest, this should be discussed with the chair.

6.4 At the time directors' interests are declared, they should be recorded in the board minutes. Any changes in interests should be declared at the next board meeting following the change occurring.

6.5 Directors' directorships of companies likely or possibly seeking to do business with the NHS should be published in the board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

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

6.7 There is no requirement for the interests of board directors' spouses or partners to be declared. [Note however that SO 7 requires that the interest of directors' spouses, if living together, in contracts should be declared].

6.8 **Register of Interests** - The trust secretary will ensure that a Register of Interests is established to record formally declarations of interests of directors. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by both executive and non-executive directors, as defined in SO 6.2.

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

6.10 The Register will be available to the public and the trust secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

6.11 In establishing, maintaining, updating and publicising the Register, the Trust shall comply at all times with the Regulatory Framework and any guidance issued by the Independent Regulator. In the event of conflict between these Standing Orders and the Regulatory Framework or guidance issued by the Independent Regulator, the latter shall prevail.

6.12 Standing Order 6 applies to a committee or sub-committee/sub-group of the Board as it applies to the Board.

7. DISABILITY OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST

7.1 Subject to the following provisions of this Standing Order, if a director of the Trust has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract or other matter is the subject of consideration, he or she shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

7.2 The Board shall exclude a director from a meeting of the Board while any contract, proposed contract or other matter in which he or she has a pecuniary interest, is under consideration.

7.3 Any remuneration, compensation or allowances payable to a director by the Trust or otherwise by virtue of paragraph 9 of Schedule 2 to the NHS & Community Care Act 1990 shall not be treated as a pecuniary interest for the purpose of this Standing Order.

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

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

Or

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

7.5 A director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

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

(b) of an interest in any company, body or person with which they are connected as mentioned in SO 7.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a director in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

7.5 Where a director:

(a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and

(b) the total nominal value of those securities does not exceed £5,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and;

(c) if the share capital is of more than one class, the total nominal value of shares of any one class in which they have a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

This Standing Order shall not prohibit them from taking part in the consideration or discussion of the contract or other matter or from voting

on any question with respect to it without prejudice however to their duty to disclose their interest.

7.6 Standing Orders 7 apply to a committee or sub-committee/sub-group of the Board as it applies to the Board.

8. STANDARDS OF BUSINESS CONDUCT

8.1 **Policy** - Staff must comply with the Trustôs Policy on Busir which embraces national guidance and requirements, and any guidance issued by the Independent Regulator. In addition, they must adhere to the Trust Principles as stated in Annex 10 of the Foundation Trust Constitution.

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

8.3 An officer must also declare to the chief executive any other employment or business or other relationship of theirs, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The chief executive will ensure that such declarations are formally recorded.

8.4 **Canvassing of and Recommendations by, Directors in Relation to Appointments** - Canvassing of directors or governors of the Trust or members of any committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.

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

8.6 Informal discussions with candidates in relation to a potential appointment whether solicited or unsolicited, should be declared to the panel or committee considering the appointment.

8.7 **Relatives of Directors or Officers** - Candidates for any staff appointment shall when making application disclose in writing whether they are related to any director or the holder of any office under the

Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render them liable to instant dismissal.

8.8 The directors and every officer of the Trust shall disclose to the chief executive any relationship with a candidate of whose candidature that director or officer is aware. It shall be the duty of the chief executive to report to the Trust any such disclosure made.

8.9 On appointment, directors (and prior to acceptance of an appointment in the case of executive directors) should disclose to the Trust whether they are related to any other director or holder of any office within the Trust.

8.10 Where the relationship of an officer or another director to a director of the Trust is disclosed, the Standing Order headed `Disability of directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

9. TENDERING AND CONTRACT PROCEDURE

9.1 **Duty to comply with Standing Orders** - The procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Orders (except where SO 3.25 (Waiver of SOs) is applied).

9.2 **Procurement Act 2023**

- Directives by the Council of the European Union promulgated by the Department of Health and Social Care (DHSC), which remain in place following the United Kingdomôs exit fr prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in these Standing Orders.

9.3 The Trust shall comply as far as is practicable with the requirements of the DHSC "Capital Investment Manual". In the case of management consultancy contracts the Trust shall comply as far as is practicable with DHSC and Treasury guidance. In all cases, the Trust shall comply with any relevant guidance issued by NHS England.

9.4 **Formal Competitive Tendering** - The Trust shall ensure that competitive tenders are invited for the supply of goods, materials and manufactured articles and for the rendering of services including all forms of management consultancy services; for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and for disposals.

9.5 Formal tendering procedures may be waived by officers to whom powers have been delegated by the Chief Executive, as identified in the schedule "Authorised Limits" appended to Standing Financial Instructions. This authority is subject to formal identification of the reason for such waiver, which would normally be one or more of the following reasons: -

(a) where the supply is proposed under special arrangements negotiated by the DHSC in which event the said special arrangements must be complied with; or

(b) the timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender; or

(c) specialist expertise or products is required and is available from only one source; or

(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; or

(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; or

The limited application of the waiver 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.

9.6 Except where SO 9.5, or a requirement under SO 9.2, applies, the Board shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, in most cases this will mean a minimum of four firms/individuals but this may differ when there are a limited number of firms/individuals in a specific product/service marketplace, having regard to their capacity to supply the goods or materials or to undertake the services or works required.

9.7 The Board shall ensure that normally the firms/individuals invited to tender (and where appropriate, quote) are among those on approved national framework agreements, unless advertised due to value whereby any eligible supplier will be able to bid.

9.8 Tendering procedures are set out in the Annex.

9.9 **Quotations** - where the intended expenditure or income is in line with the sum agreed by the Board and incorporated into the Appendix 1 ("Authorised Limits") to the Trust's Standing Financial Instructions.

9.10 Where quotations are required under SO 9.9 they should be obtained from at least three firms/individuals as per the Annex based on specifications or terms of reference prepared by, or on behalf of, the Board.

9.11 Quotations should be in writing unless the chief executive, or their nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotation should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.

9.12 All quotations should be treated as confidential and should be retained for inspection.

9.13 The chief executive or their nominated officer should evaluate the quotations and select the one which gives the best value for money. If this is not the lowest then this fact and the reasons why the lowest quotation was not chosen should be in a permanent record.

9.15 **Where tendering or competitive quotation is not required**

Where tenders or quotations are not required, because expenditure is below the threshold referred to in 9.9 above the Trust shall procure goods and services in accordance with procurement procedures approved by the Board.

9.16 The chief executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided under contract or in-house. The Board may also determine from time to time that in-house services should be market tested by competitive tendering (SO 11).

9.17 **Private Finance** - 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) The proposal must be specifically agreed by the Board of Directors in the light of such professional advice as should reasonably be sought in particular with regard to vires.
(c) The selection of a contractor/finance company must be on the basis of competitive tendering or quotations.

9.18 **Contracts** - The Trust may only enter into contracts within its statutory powers and shall comply with:

(a) these Standing Orders;

(b) the Trust's Standing Financial Instructions (SFIs);

(c) Procurement Act 2023
and other statutory provisions;

(d) any relevant directions issued by the Regulator;

(e) such of the NHS Standard Contract Conditions as are applicable.

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.

9.19 In all contracts made by the Trust, the Board shall endeavour to obtain best value for money. The chief executive shall nominate an officer who shall oversee and manage each contract on behalf of the Trust.

9.20 **Personnel and Agency or Temporary Staff Contracts** - The chief executive shall nominate officers with delegated authority to enter into contracts for the employment of and to authorise regrading of staff, and to enter into contracts for the employment of agency staff or temporary staff.

9.21 **Healthcare Services Contracts** - Unlike contracts made by an NHS Trust, contracts made between an NHS Foundation Trust and other NHS bodies do give rise to contractual rights and liabilities. This rule applies to all types of contract, including for example partnership agreements and contracts for the supply of healthcare.

9.22 The chief executive shall nominate officers with power to negotiate for the provision of healthcare services with purchasers of healthcare.

9.23 **Other Contracts for Services provided by the Trust -** the chief executive shall nominate officers with powers to negotiate such contracts and will ensure that contract documentation is signed by a duly authorised officer.

9.24 **Cancellation of Contracts** - Except where specific provision is made in model Forms of Contracts or standard Schedules of Conditions approved or adopted for use by the Trust and in accordance with Standing Orders 9.2 and 9.3, there shall be inserted in every written contract a clause empowering the Trust to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered, or given or agreed to give, any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Trust, or for showing or forbearing to show

(b) In-house tender group, comprising representatives of the in-house team, a nominee of the chief executive and technical support.

(c) Evaluation group, comprising at minimum, a specialist officer, a procurement officer and a representative of the finance director. The requirement for Trust Board representation in the evaluation group will be determined by the potential contract value and by reference to the Appendix ("Authorised Limits") to the Trust's Standing Financial Instructions.

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

11.3 The evaluation group shall make recommendations to the Board.

11.4 The chief executive shall nominate an officer to oversee and manage the contract.

12. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

12.1 **Custody of Seal** - The Common Seal of the Trust shall be kept by the trust secretary in a secure place.

12.2 **Sealing of Documents** - The Seal of the Trust shall not be fixed to any documents unless the sealing has been authorised by a resolution of the Board or otherwise under the authority of the Board through a resolution of the Board formally delegating such authorisation.

12.3 The seal shall be attested by at least two directors and the authorisation may specify which directors shall attest the seal on that occasion.

12.4 **Register of Sealing** ï The trust secretary will ensure that an entry of every sealing shall be made and numbered consecutively in a book provided for that purpose and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal. A report of all sealing shall be made to the Trust at least quarterly. (The report shall contain details of the seal number, the description of the document and date of sealing).

13. SIGNATURE OF DOCUMENTS

13.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the chief executive, unless any enactment otherwise requires or authorises, or the Board shall have given the necessary authority to some other person for the purpose of such proceedings.

13.2 The chief executive or nominated officers shall be authorised, by resolution of the Board, to sign on behalf of the Trust any agreement or other document (not required to be executed as a deed) the subject matter of which has been approved by the Board or committee or sub-committee to which the Board has delegated appropriate authority.

14. MISCELLANEOUS

14.1 **Standing Orders to be given to Directors and Officers** - It is the duty of the chief executive to ensure that existing directors and officers and all new appointees are notified of and understand their responsibilities within Standing Orders and SFIs. Updated copies shall be issued to staff designated by the chief executive. New designated officers shall be informed in writing and shall receive copies where appropriate of SOs.

14.2 **Documents having the standing of Standing Orders** - Standing Financial Instructions and Scheme of Delegation shall have the effect as if incorporated into SOs.

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

Annex - TENDERING PROCEDURE

1. Invitation to Tender

1.1 All invitations to tender on a formal competitive basis shall state that no tender will be considered for acceptance unless submitted in either:

(a) the Trust's approved electronic ten
a fully auditable record of tender receipt.

(b) the electronic tendering solution of an approved national framework provider, where nominated to support procurement exercises and the system allows for a fully auditable record of tender receipt.

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 Section 1.3 and 1.4 below.

1.3 Every tender for building and 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 to comply with Concode. 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 Institutions of Mechanical Engineers 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 standard documents should be amended to comply with Concode and, in minor respects, to cover special features of individual projects. Tendering based on other forms of contract may be used only after prior consultation with the DH.

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 practice.

2. Receipt, Safe Custody and Record of Formal Tenders

2.1 Formal competitive tenders shall be returned through the T
electronic tendering system.

2.2 The date and time of receipt of each tender shall be registered in the electronic tendering system with no potential for alteration.

2.3 The chief executive shall designate the Trustôs electronic system to receive tenders on his or her behalf and to be responsible for their endorsement and safe custody until the time appointed for their opening, and for the records maintained in accordance with Section 3.

3. Opening Formal Tenders

3.1 As soon as practicable after the date and time stated as being the latest time for the receipt of tenders they shall be opened in the Trustôs electronic tendering system, which records the tender return in an uneditable format.

3.2 Every tender received shall be stamped with the date of opening within the Trustôs electronic tendering syste

3.3 A permanent record shall be maintained to show for each set of competitive tender invitations dispatched:

(a) the names of firms/individuals invited;
(b) the names of and the number of firms/individuals from which tenders have been received;
(c) closing date and time;
(d) date and time of opening;

3.4

4.4 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 or her offer.

4.5 Necessary discussions with a tenderer of the contents of his or her tender, in order to elucidate technical points etc., before the award of a contract, need not disqualify the tender.

4.6 While decisions as to the admissibility of late, incomplete, or amended tenders are under consideration and while re-tenders are being obtained, the tender documents shall remain strictly confidential and kept in safekeeping by an officer designated by the chief executive.

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

4.8 Evaluation criteria covering quality and pricing, designed to deliver the best value for money solution for a tender, shall be agreed by the designated project team for each tender exercise. The tender scoring highest in the evaluation criteria shall be recommended to be awarded the contract.

4.9 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 nominated officer.

4.10 All Tenders should be treated as confidential and should be retained for inspection in line with the Trust's retention of documents policy.

ANNEX 9 ï FURTHER PROVISIONS

1. A person may not become a member of the Foundation Trust if within the last five years they have been involved as a perpetrator in an incident of violence or abuse at any NHS hospital or facilities; against any NHS employees or other persons who exercise functions for the purposes of the NHS; against registered volunteers; against patients or the public on NHS premises; or if they are the subject of a security alert. Also, any person may not become or remain a member of the NHS Foundation Trust if in the opinion of the Council of Governors; there are reasonable grounds to believe that they are likely to behave in a way detrimental to the interests of the Trust.

2. A member shall cease to be a member if:

- they resign by notice to the trust secretary;
- they die;
- they are expelled from membership under this constitution;
- they cease to be entitled under this constitution to be a member of any of the public constituencies or of any of the classes of the staff constituency;
- if after enquiries made in accordance with a process approved by the Council of Governors, they fail to establish that they wish to continue to be a member of the Trust.

3. A member may be expelled by a resolution approved by not less than two-thirds of the members of the Council of Governors present and voting at a General Meeting. The following procedure is to be adopted:

- Any member may complain to the trust secretary that another member has acted in a way detrimental to the interests of the Trust.
- The chair of the Council of Governors, assisted by the trust secretary, will judge the manner in which the complaint should be managed.
- If appropriate, the Council of Governors will consider the complaint having taken such steps as it considers appropriate to ensure that the point of view of the members involved is heard and may either:
    - dismiss the complaint and take no further action; or
    - arrange for the complaint to be considered at the next General Meeting of the Council of Governors.
- Details of the complaint must be sent to the member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the next General Meeting of the Council of Governors.
- At the meeting the Council of Governors will consider evidence in support of the complaint and such evidence as the member complained of may wish to place before them.
- If the member complained of fails to attend the meeting without reasonable cause the meeting may proceed in their absence.
- The Council of Governors will take a view on the complaint and may decide to expel the member from membership of the Foundation Trust. To effect expulsion from membership, the Council of Governors will adopt a

resolution approved by not less than two-thirds of the members of the Council of Governors present and voting at a General Meeting.

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

4. A member who is expelled may apply for re-admission to membership. This application is to be made in writing to the chair, who will arrange for the application to be considered by the next General meeting of the Council of Governors. No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of two-thirds of the members of the Council of Governors present and voting at a General Meeting.

5. The Trust will have a trust secretary, who may be appointed and removed by resolution of the chair and chief executive jointly.

6. The trust secretary and members of the Council of Governors and Board of Directors who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly, and the Trust may also take out and maintain for their benefit insurance against such risks. Any costs arising in this way will be met by the Trust.

6.1 The Council may make amendments to this Constitution but where these cannot be agreed with both the Board and Council then these will be made subject to approval of NHS England, subject to paragraph 6.2 below.

6.2 No proposals for amendment of this Constitution will be put to NHS England unless it has been approved by three quarters of those governors present and voting at a meeting of the Council of Governors.

7. The validity of any act of the Trust is not affected by any vacancy among the directors or the governors or by any defect in the appointment of any director or governor.

7.1 If:

(a) an executive director is temporarily unable to perform their r duties due to illness or some other reason (the "Absent Director"); and

(b) the board of directors agree that it is inappropriate to terminate the Absent Directorôs term of office and a and

(c) the board of directors agree that the duties of the Absent Director need to be carried out;

then the non-executive directors may appoint an acting director as an additional director to carry out the absent director's duties temporarily.

7.2 For the purposes of paragraph 8.1 of this Annex, the maximum number of directors that may be appointed under paragraph 18.2 of the Constitution shall be relaxed accordingly.

7.3 The acting director will vacate office as soon as the absent director returns to office.

7.4 An acting director shall be responsible for their own acts and defaults and they shall not be deemed to be the agent of the absent director.

8. When a vacancy arises for one or more elected governors, the Council of Governors shall have the option to take from the list of members who stood for election at the most recent election of governors for the class or constituency in question whichever member who was not elected as a governor at the recent election but had secured the next most votes at that time. This procedure, which shall be an uncontested election for the purposes of the Model Rules for Elections as they apply to the Trust, shall be available to the governors on two occasions within 12 months of the previous election. Governors appointed in this way shall hold office for a minimum of 6 months from their appointment but, subject thereto, shall hold office until the earlier of the conclusion of the next election of governors and (except where the vacancy arose through expiry of a term of office) the date on which would have expired the term of office of that governor whose cessation of office gave rise to the vacancy.

9. The minimum age for membership of this Trust is 14 years old. There is no upper age limit.

ANNEX 10 ï TRUST PRINCIPLES

Trust Principles of Conduct

The Seven Principles of Public Life, also known as the ôNolan Principlesô of selflessness, integrity, objectivity, accountability, openness, honesty and leadership should be upheld by all employees and elected and appointed Governors of The Dudley Group NHS Foundation Trust

The **Seven Principles of Public Life** which apply to everyone engaged in public service are:

Selflessness Holders of public office should act solely in terms of the public interest. They should not seek to gain financial or other 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 seek to 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. This includes a commitment to promote racial and religious tolerance, and to be aware of community diversity and to be trained in that context.

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. Everything done by those who work in the Trust must be able to stand the test of parliamentary scrutiny, public judgments on propriety and professional codes of conduct.

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. There should be sufficient transparency about the between the Trust and its staff, patients and the public.

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. There should be an absolute standard of honesty in dealing with the assets of the Trust: 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 employment.

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

It is an offence under the Prevention of Corruption Acts 1906 and 1916 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.

Further Guidance

Employees and Governors are expected to:

- ensure that the interests of patients remain paramount at all times
- act impartially in all their work
- adhere to the regulations as set out in the prevailing legislation relating to the Bribery Act 2010
- refuse gifts, benefits, hospitality or sponsorship of any kind (including attendance at conferences) which might reasonably be seen to compromise their personal judgment or integrity, and to avoid seeking to exert influence to obtain preferential consideration. All such gifts should be returned and hospitality refused
- declare and register gifts, benefits, or sponsorship of any kind, in accordance with time limits agreed locally, (provided that they are worth at least £25), whether refused or accepted. In addition, gifts should be declared if several small gifts worth a total of over £100 are received from the same or closely related source in a 12-month period
- declare and record financial or personal interest (e.g., company shares, research grant) in any organisation with which they have to deal, and be prepared to withdraw from those dealings if required, thereby ensuring that their professional judgment is not influenced by such considerations
- make it a matter of policy that offers of sponsorship that could possibly breach these principles and guidance will be reported to the Board
- not misuse their official position or information acquired in the course of their official duties, to further their private interests or those of others
- ensure professional registration (if applicable) and/or status are not used in the promotion of commercial products or services
- beware of bias generated through sponsorship, where this might impinge on professional judgment and impartiality
- neither agree to practice under any conditions which compromise professional independence or judgment, nor impose such conditions on other professionals.

Anyone requiring further advice should contact their line manager in the first instance, or for governors, the trust secretary. If the line manager is unable to decide then the trust secretary should be consulted.

Failure to adhere to the Trustôs rules may l
including dismissal, or for governors, disqualification from becoming or continuing as a governor.

ANNEX 11 ï RESERVATION OF POWERS AND SCHEME OF DELEGATION

CONTENTS

1 Introduction

2 Determination by the Board of Directors

3 Delegation to Committees

4 Reservation of Power to the Board of Directors

5 Power Delegated by the Board of Directors to Committees

6 Summary of Prescribed Authority and Accountability (Accountable Officer Memorandum)

7 Delegation to the Chief Executive and Executive Directors

1. Introduction

This document sets out the powers reserved to the Board of Directors and the Scheme of Delegation (the Scheme). Notwithstanding any specific delegation, the Board of Directors remains accountable for all of its functions, including those which have been delegated.

The Scheme is to be used in conjunction with the Standing Orders and Standard Financial Instructions of the Trust.

All powers of the Trust which have not been reserved to the Board of Directors or delegated to a Board Committee shall be exercised on behalf of the Board of Directors by the Chief Executive or other Executive Directors.

The Chief Executive is the Accounting Officer of the Trust and the Scheme sets out the additional responsibilities and duties of the Chief Executive, in relation to the discharge of these functions.

2. Reservation of Powers to the Board of Directors

Notwithstanding any provision of this Scheme, the Board of Directors may elect to determine any matters within its competence.

3. 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 from time to time taking into account any regulatory requirements.

4. RESERVATION OF POWER TO THE BOARD OF DIRECTORS

Constitutional Provisions

Reserved Matter
To approve variations or amendments to the Trusts constitution in conjunction with the Council of Governors
To approve the Scheme of Delegations of the Trust
To approve the Standing Financial Instructions of the Trust
To approve Trust Standing Orders for the regulation of its proceedings and business
To suspend vary or amend Standing Orders
To determine the composition of the Board of Directors in conjunction with the Council of Governors
To appoint, in conjunction with the Council of Governors, one of the Non-Executive Directors to act as the Senior Independent Director.
To ratify any urgent decisions taken by the Chair and Chief Executive in accordance with Standing Orders
To receive the declarations of Board members interests and determine the extent to which that Member may remain involved in the matter under consideration
To resolve to exclude members of the public and press from any meeting or part of a meeting
To appoint to Outside Bodies
To authorise the use of the Trust Seal

Regulation and Controls

Reserved Matter
To keep under review and ensure that the Trust provides the mandatory goods and services as required by the NHS Provider Licence
To determine the establishment and dissolution of the Committees that report directly to the Board of Directors.
To determine the terms of reference and reporting arrangements of all Committees established by the Board of Directors
To receive reports from Board Committees and determine any recommendations thereof
To determine and resolve any breaches of the Constitution, the Scheme or Standing Orders and any consequential actions that the Board of Directors deems necessary.
To approve and apply the Code of Conduct for the Board of Directors
To appoint appraise, discipline and dismiss Executive Directors and the trust secretary
To approve and monitor the Trustôs Risk Management framework
To approve arrangements for dealing with complaints
To approve the Trustôs banking arrangements
To approve arrangements relating to the discharge of trust the Trustô
To approve arrangements relating to the discharge of the Bailee. Trustô
To approve the Care Quality Commission registration declaration
To approve the Trustôs Quality Report prior to submission
To approve any monitoring returns to Regulators or the Secretary of State required of the Board of Directors and to take any appropriate action thereon
To approve the Annual Letter of Representation having considered the advice of the Audit Committee
To receive the annual Management Letter of the external auditor and agree any consequential actions having considered the advice of the Audit Committee
To consider any public interest report produced by the External Auditor having considered the advice of the Audit Committee

Strategy, Plans and Financial Arrangements

Reserved Matter
To determine the strategic objectives of the Trust
To approve the Annual Plan
To approve the Trust's Forward Plan in conjunction with the Coun
To approve the Annual Report and the Annual Accounts
To approve the annual revenue and capital budgets and the capital programme
To receive and consider such Trust wide annual reports as may be specified from time to time in the Trust Board annual work plan
To approve proposals for acquisition, disposal or change of use of land or buildings
To approve any new capital investments or business cases in accordance with the thresholds determined in the Standing Financial Instructions
To approve any new contracts or variation to contracts of 500k or more
To write off bad debts at a value in excess of any delegation set out in the Standing Financial Instructions
To approve expenditure in excess of any value determined by Standing Financial Instructions
To approve individual compensation payments over £10k except where these are made in accordance with the NHS Resolution (formerly NHS Litigation Authority) instruction

5. POWER DELEGATED BY THE BOARD TO COMMITTEES

The Board of Directors shall determine the extent and nature of any powers delegated to Committees of the Board and which are more particularly set out in the Terms of Reference.

Any amendment to the Terms of Reference of a Committee as approved by the Board shall be deemed to be an amendment to the Scheme of Delegations

Reserved to/ Delegated to	Reserved / Delegated Matter
Audit Committee	The duties of the Committee can be categorised as follows: **Governance Risk Management and Internal Control** The Committee will review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation, that supports the achievement of the organisationôs objecti In particular, the Committee will review the adequacy and effectiveness of: • all risk and control-related disclosure statements (in particular the Annual Governance Statement), together with an accompanying Head of Internal Audit statement, External Audit Opinion or other appropriate independent assurances, prior to endorsement by the Board of Directors. • The underlying assurance processes that indicate the degree of 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 policies and procedures for all work related to fraud and corruption as set out in Secretary of Stateôs Directions and as r Protect). • The Committee will seek assurance over the effectiv In carrying out this work the Committee will primarily 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 over-arching systems of integrated governance, risk management and internal control, together with indicators of their ef effective Assurance Framework to guide its work and that of the audit and assurance functions that report to it.

Reserved to/ Delegated to	Reserved / Delegated Matter
	Internal Audit The Committee shall ensure that there is an effective Internal Audit function that meets Government Internal Audit Standards and provide 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. • Considering the major findings of Internal Au-dit investigations and management's responses, and ensuring co-ordination between the Internal and External Auditors to optimise audit resources. • Ensuring that the Internal Audit function is adequately resourced and has appropriate standing within the organisation • An annual review of the effectiveness of Internal Audit. **External Audit** The Committee shall review the work and findings of the External Auditors and consider the implications and management's responses to their work. This will be ach • Consideration of the appointment and performance of the external auditors, as far as the rules governing the appointment permit. • Discussion and agreement with the external auditors, before the audit commences, of the nature and scope of the audit as set out in the Annual Plan, and ensuring co-ordination, as appropriate, 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 of all external audit reports, including the Report to those charged with Governance and any work undertaken outside the Annual Audit Plan, together with the appropriateness of management responses. • Review of the report on Quality Accounts.

Reserved to/ Delegated to	Reserved / Delegated Matter
	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 for the governance of the organisation. These will include, but will not be limited to, any re regulators/inspectors (for example, NHS England, the Care Quality Commission, NHS Resolution (formerly NHSLA) etc) and professional bodies with responsibility for the performance of staff or functions (for example, Royal Colleges, accreditation bodies etc.). In addition, the Committee will review the work of other committees within the Trust whose work can provide assurance to the Audit Committeeôs own scope of work. In particu Experience Committee and risk management groups established as reporting groups at 8.5 below. **Counter Fraud** The Committee shall satisfy itself that the organisation has adequate arrangements in place for countering fraud and shall review the outcomes of counter fraud work. **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. The Committee may also request specific reports from individual functions within the organisation (for example, clinical audit) as they may be appropriate to the overall arrangements. **Financial Reporting** The Audit Committee shall monitor the integrity of the financial statements of the Trust and any formal announcements relating to the Trustôs financial performance. The Committee should ensure that the systems for financial reporting to the Board, including those of budgetary control, are subject to review as to completeness and accuracy of the information provided to the Board. The Audit Committee shall review the Annual Report, Quality Accounts and financial 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.

Reserved to/ Delegated to	Reserved / Delegated Matter
	• Changes in, and compliance with, accounting policies, practices and estimation techniques. • Unadjusted misstatements in the financial statements. • Significant judgements in preparation of the financial statements. • Significant adjustments resulting from the audit. • Letter of representation. • Qualitative aspects of financial reporting. • Contents of Quality Accounts
Remuneration and Nominations Committee	The Committee will: Determine the terms and conditions and pay levels and non-pay benefits for the Trust Chief Executive and Executive Directors. Determine any monetary severance arrangements for the Trust Chief Executive and Executive Directors. Determine the implementation of the agreed policy for any performance-related pay scheme applicable to the Trust Chief Executive and Executive Directors. Review pay levels annually in line with inflation and relevant labour markets. Review and determine expenses payable to Governors. Review the size, structure and composition of the Board of Directors and make recommendations to the Board of Directors and Council of Governors, as appropriate. Evaluate the balance of skills, knowledge and experience on the Board of Directors and to identify those required for appointments of the Trust Chair, Non-Executive Directors, Chief Executive and Executive Directors Explore any reported concerns relating to the Trust Chief Executive and Executive Directors in relation to Fit and Proper Person demands. Review the skills and expertise needed on the Board, taking account of current and future challenges and opportunities. For the appointment of the Chief Executive and Executive Directors, to agree a job description and person specification for the role and capabilities required.

Reserved to/ Delegated to	Reserved / Delegated Matter
	Identify and nominate suitable candidates for Chief Executive and Executive Director vacancies. To agree and manage the nominations, appointments and re-appointments processes for: • Chief Executive • Executive Directors In doing this, the Committee will agree the size and composition of the selection panel for these appointments. To recommend its proposed appointment for the Chief Executive post to the Council of Governors for approval. To meet, without the Chair, Chief Executive and Director of Human Resources, to review the performance of the Chair on a regular basis.
Quality Committee	The Committee will ensure that the Trust has appropriate and effective systems in place that cover all aspects of Clinical Quality, Clinical Effectiveness, Patient Safety and Experience. The duties of the Committee can be summarised as follows: - To undertake detailed scrutiny of regular reports, relating to Clinical Effectiveness, Patient Safety and Patient Experience utilising best practice metrics that provide robust clinical governance processes to deliver safe, high quality and patient centred care. Holding senior staff to account, to challenge assumptions and decisions as necessary, to monitor progress, and to provide assurance to the Board. To approve, challenge as necessary and monitor progres promote excellence in patient care across the organisation. To set clear quality performance expectations and ensure the development of high quality care and continuous improvements through innovation and the use of levers such as CQUINS. To scrutinise and monitor progress against performance expectations, challenging progress where appropriate and managing actions where timeframes are breached. To identify and advise on quality improvement priorities of service areas, to receive exception reports and external reviews of provider services and ensure appropriate action is identified and monitored. To ensure that the Trust fulfils its obligations with regard to the Health Act (2009) and NHS England in the production of an Annual Quality Account and Report. To monitor performance of all reporting groups; to review and challenge performance, assumptions and decisions as necessary with individual Clinical Units and Directorates. Ensuring robust remediation is implemented if appropriate and

Reserved to/ Delegated to	Reserved / Delegated Matter
	holding senior staff to account. To take a lead for Quality and Patient Safety within the organisation and provide assurance to the Board on the standards of care provided across the range of Trust services, including actions in place to drive improvements and mitigate risks. To take the lead for Patient Experience across the organisation and receive regular reports; challenge assumptions and decisions as necessary and monitor progress to enable it to provide assurance to the Board on the arrangements in place to capture and report on Patient Experience and systems in place to drive improvements and learn from issues and complaints. Review and manage information from Complaints and Claims, receiving both quarterly and annual Complaints and Claims reports. Monitor the effectiveness of the Trust themes, monitoring the effectiveness of the Trustôs sy patients and relatives. Ensuring appropriate actions are identified and implementation of changes and improvements are implemented and progress monitored. Receive a quarterly claims report (incorporating an analysis of Solicitors Risk Management Reports) identifying trends and themes and lessons learned and ensuring Divisions have identified appropriate actions; that these are implemented within agreed timeframes and challenging assumptions and decisions as necessary.
People Committee	The Committee will: Review and monitor the workforce strategy, applying challenge where necessary to ensure the delivery of the underlying plan on workforce issues including the efficient deployment of staffing to meet service requirements. To receive details of workforce planning priorities that arises from the annual business planning process. To obtain assurance that the identified workforce priorities are addressed, challenged as necessary and progress against identified action is monitored. To review the establishment and maintenance of an effective system of Human Resources and Workforce Planning across the whole of the organisation (clinical and non-clinical) that supports the achievement of the organisationôs strategic and operational objectives. The Committee shall review Workforce priorities, Workforce Planning, Learning and Development and Staff Engagement to ensure adequate evaluation and monitoring within the Trust and to ensure local and national priorities are being addressed and that the Trustôs ability to re

Reserved to/ Delegated to	Reserved / Delegated Matter
	To review, challenge and agree progress against the workforce key performance indicators with specific responsibility for the monitoring of staff appraisals and compliance with mandatory training. To approve the annual workforce data prior to submission to NHSI. To receive and discuss key strategic risks relating to workforce and employment practice; to consider, challenge as necessary and monitor plans for mitigation, to maintain the risk at the lowest realistic level and to advise the Board as appropriate. To receive regular reports, on Organisational Development including leadership capability and to review and challenge progress as necessary. Workforce and Staff Engagement Group March 2019 Page 3 To ensure that feedback from the National and other Staff Surveys is appropriately analysed, reported and actions identified and taken. To specifically receive, analyse and ensure feedback is available and provided to the organisation and the Trust Board in relation to local staff survey results; ensuring appropriate actions are identified and monitored. To oversee the development and implementation of a comprehensive education and training strategy to include corporate learning and development requirements associated to the Local Workforce Action Board (LWAB). To receive, discuss, challenge as necessary regular reports relating to medical and non- medical education priorities and plans, ensuring they reflect Trust priorities and that actions are monitored. To oversee the development and implementation of the Equality and Diversity Strategy; in relation to workforce, ensuring identified actions are monitored and challenged as appropriate. Review local population demography to allow meaningful development of action plans as deemed appropriate. To oversee, monitor and challenge as necessary the development and implementation of the Health and Wellbeing Strategy. To oversee the development and implementation of the T challenging as necessary the development and implementation of plans to address the priorities identified for meaningful staff engagement and partnership working across the Trust. To monitor compliance with CQC standards that relate to employment ensuring completion of actions. To oversee the adequacy of arrangements for the management of and compliance with the Health and Safety at Work Act 1974 and subsequent amendments including the reporting of non-clinical workforce related incidents and RIDDORS (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013). To specifically receive reports and to

Reserved to/ Delegated to	Reserved / Delegated Matter
	provide detail to the Trust Board of the key themes and actions taken in response to non-clinical workforce related RIDDOR incidents.
Finance and Productivity Committee	The purpose of the Finance and Productivity Committee is to seek assurances on behalf of the Board on finance and performance matters. It is also the means by which performance issues arising from the Workforce and Digital Trust Committees will be escalated to the Board. The Committee will have a rotating agenda as agreed from time to time by the Chair of the Committee and the Director of Finance. Specifically the Committee will: **Strategic and Business Planning** Scrutinise the Trust Annual Plan, Cost Improvement Plan and Budgets before they are submitted to the Board of Directors to assure itself that they are realistic, financially sound and appropriately stretching. Consider and provide advice to the Board on regular financial performance reports and forecasts, focusing particularly on risks and assumptions. Monitor performance compared to the Annual Plan, Cost Improvement Plan and Budgets; investigate variances and seek assurance that appropriate actions are in place to remediate any shortfalls. Monitor the underlying financial position and oversee multi-year financial plans. Monitor the underlying Trust and System wide financial position and oversee multi-year financial plans and seek assurance they are accurate and realistic Oversee the development, management and delivery of th Consider financial aspects of Business Cases for significant revenue or capital expenditure, ensuring benefits realisation is detailed and appropriate. Receive benefits realisation reviews for all Business Cases for return on investment/benefits realisation. Review opportunities for increasing activity/income from market intelligence analyses. **Performance Management** Scrutinise the performance dashboard; review and challenge performance and ensure that any necessary action to mitigate poor performance is appropriate. Consider performance against external performance targets set by the Care Quality Commission, NHSE and as agreed in legally binding contracts, ensuring appropriate actions are in place to remediate any shortfalls.

Reserved to/ Delegated to	Reserved / Delegated Matter
	Review benchmarking information and procurement performance to challenge whether the Trust is achieving best value for money. Receive and undertake detailed scrutiny of the PFI contract performance with Summit, specifically receiving updates on performance evaluation of catering, cleaning services, estates, sterile services, security and medical device maintenance. Maintain ongoing scrutiny of those risks detailed in t designated responsible and seek assurance that the risks are being managed appropriately. **Legally Binding Contracts with Third Parties** Consider regular reports of Trust and Directorate performance in respect of contracts agreed with third party organisations and require appropriate action to be taken. **Trust Subsidiary Companies** The Committee shall monitor the financial and operational performance of any subsidiary companies wholly or partly owned by the Trust. The Committee shall receive an annual report on the activities and profitability of such companies, which will provide assurance on business effectiveness and profitability to the Board of Directors.
Charity Committee	The duties of the Committee can be categorised as follows: To manage the affairs of the Charity within the terms of its declaration of Trust, and appropriate legislation. To manage the investment of funds in accordance with the Trustee Act 2000 and if necessary to appoint fund managers to act on its behalf. To set out annual objectives. To determine a Charitable Funds Marketing Strategy, to ensure the fundraising element of the Charitable Funds Strategy works within recognised good practice frameworks and identifies methods of fundraising appropriate for the Charity. To ensure funding decisions are appropriate and are co provides added value and benefit to the patients and staff of the Trust, above those afforded by the Exchequer funds. To receive regular reports on the performance of the charitable fundraising activities. To implement as appropriate, procedures and policies to ensure that accounting systems are robust, donations received

Reserved to/ Delegated to	Reserved / Delegated Matter
	and coded as instructed and that all expenditure is reasonable, clinically and ethically appropriate. To approve the annual report and accounts and to ensure that relevant information is disclosed.
Integration Committee	The Committee was established in June 2023 and the duties can be categorised as follows: Provide oversight of the Board Assurance Framework risks relating to the delivery of Trust strategy relating to building innovative partnerships and improving health and wellbeing. Promote and encourage commitment to the Dudley Health and Care Partnership. Seek assurance from the Dudley Health and Care Partnership Board on delivery of the Trust elements of the Dudley Joint Forward Plan. The committee should recognise that not all Place activities are exclusively under the direct management of the Trust and therefore differing levels of assurance will be required together with mitigation. Draw on the standing data set within the integrated place performance report that relates to long term strategic goals, addressing the wider determinants of health and health in equalities in the populations we serve. Receive the transformation plans for the continued development of Place based partnerships over time supporting both Place and Trust strategies. Seek assurance on the robustness and delivery of plans to increase the range and scope of the Place Based Partnerships, anchor partnership work and the Trusts role within them. Seek assurance on the adequacy of the work with partners to integrate operational services with those that the Trust runs to improve quality, effectiveness and sustainability. Seek assurance on the adequacy of plans to realise the and health inequalities through the improve health and wellbeing strategic goals. Seek assurance from Divisions that operationally the Trust is integrating and collaborating with partners to improve patient outcomes and that learning is being shared across the Trust. Seek assurance on any additional matters referred to the Committee from the Board. Oversee the Trusts progress towards achieving University Hospital status.

Reserved to/ Delegated to	Reserved / Delegated Matter
Joint Provider Committee	Formally established October 2023 as The Black Country Provider Collaborative Committee with the following primary purposes. The Black Country Provider Collaborative brings together partners across the Black Country to improve patient outcomes, improve access to services and reduce health inequalities between different population groups within our local population. To further strengthen collaborative working, the provider collaborative has established the joint provider committee, which is a committee of each of the constituent partners. The partners may delegate specific responsibilities to the joint provider committee furthering their collaboration and as a mechanism to conduct this in the areas identified to avoid duration and variation at a system level the scope of the joint provider committee will initially be focused on three key areas which may develop and change as the black glider collaborative continues to develop mature. The key areas as identified from time to time by the partners will be reflected in the work plan of the joint provider committee In deliveringit's agreed work plan the joint provider committee - drive the development of clinical services - enable collaboration between partners regarding the management and delivery of support services - coordinate system transformation projects - explore changes in governance or processes that would enable partners to collaborate more effectively - provide a forum in which partners can share information and discuss issues
Digital Trust	•

Reserved to/ Delegated to	Reserved / Delegated Matter
Technology Committee	

6. **SUMMARY OF PRESCRIBED AUTHORITY AND ACCOUNTABILITY (Accountable Officer Memorandum)**

Reserved to/ Delegated to	Reserved / Delegated Matter	Details / Reference
Chief Executive	• Accountable through the NHS accounting officer to parliament for stewardship of the Trust resources	Accountable Officer Memorandum
Chief Executive and Director of Finance	• Ensure the accounts of the Trust are prepared under principles and in a format directed by NHSI. Accounts must disclose a true and fair view of the Trust income and expenditure and its state of affairs • Sign the accounts on behalf of the Board	Accountable Officer Memorandum
Chief Executive	• Sign a statement in the accounts outlining responsibilities as the accounting officer • Sign a statement in the accounts outlining responsibilities in respect of Internal Control	Accountable Officer Memorandum

Chief Executive	• Ensure effective management systems that safeguard public funds and assist the Trust chair to implement requirements of corporate governance including ensuring managers:
	  • Have a clear view of their objectives and the means to assess achievements in relation to those objectives;
	  • Be assigned well defined responsibilities for making best use of resources; and,
	  • Have the information, training and access to the expert advice they need to exercise their responsibilities effectively
		Accountable Officer Memorandum

Chair	• Implement requirements of corporate governance.	Accountable Officer

Reserved to/ Delegated to	Reserved / Delegated Matter	Details / Reference
		Memorandum
Chief Executive	• Achieve value for money from the resources available to the Trust and avoid waste and extravagance in the organisation's activities • Follow through the implementation of any recommendations affecting good practice as set out on reports from such bodies as the Audit Commission, the National Audit Office (NAO) and Regulators	Accountable Officer Memorandum
Director of Finance	• Operational responsibility for effective and sound financial management and information	Accountable Officer Memorandum
Chief Executive	• Primary duty to see that director of finance discharges this function	Accountable Officer Memorandum
Chief Executive	• Ensuring that expenditure by the Trust complies with Parliamentary requirements	Accountable Officer Memorandum
Chief Executive & Director of Finance	• The chief executive, supported by director of finance, to ensure appropriate advice is given to the Board on all matters of probity, regularity, prudent and economical administration, efficiency and effectiveness	Accountable Officer Memorandum
Chief Executive	• If the chief executive considers the Board or chair is doing something that might infringe probity or regularity, they should set this out in writing to the chair and the Board. If the matter is unresolved, they should ask the Audit Committee to inquire and if necessary the Board.	Accountable Officer Memorandum
Chief Executive	• If the Board is contemplating a course of action that raises an issue not of formal propriety or regularity but for value for money, the chief executive should draw the relevant factors to the attention of the Board.	Accountable Officer Memorandum

7. DELEGATION TO THE CHIEF EXECUTIVE AND EXECUTIVE DIRECTORS

Those functions of the Trust which have not been reserved to the Board or delegated to other committees shall be exercised on behalf of the Trust by the Chief Executive and the Executive Directors in accordance with the functions and responsibilities allocated to such post holders by the Board of Directors.

Nothing in the Scheme shall negate or impair the direct accountability to the Board of the Directors.

ANNEX 12 ï ANNUAL MEMBERSôMEETING

1. ANNUAL MEMBERSôMEETINGS

1.1. The Trust shall hold a membersô meeting f
Membersô Meetingò) within six monthehs of
Trust.

1.2. Annual Membersô Meeto all members of the Trust, the members
of the Council of Governors and members of the Board of Directors, together with representatives of the Trust auditors, and open to members of the public. The Trust may invite representatives of the media and any experts or advisors whose attendance they consider to be in the best interests of the Trust to attend any such meeting.

1.3. The Board of Directors (or at least one member thereof) shall present to the members at the Annual Membersô Meeting

1.3.1 the annual accounts;

1.3.2 any report of the auditor on them;

1.3.3 the annual report (including Quality Account):

1.3.4 the results of any election and appointments to the Council Governors, and any other reports or documentation it considers necessary.

1.3.5 If there has been an amendment to the Trusts Constitution which relates to the powers, duties or roles of the Council of Governors, at least one Governor must attend the next Annual Members Meeting and present the amendment/s to member. Members have the right to vote on and veto these types of constitutional amendments.

1.4. The Chair of Governors shall give notice to all members of the scheduled meeting:

1.4.1 by giving not less than 21 days ô notice

1.4.2. by notice prominently displayed at the Trust ôs headquarter
sites operated by the Trust

1.4.3 by notice on the Trust ôs website to the Council of Governors, the Board of Directors, and to the Trust auditors, stating the meeting is an Annual Members Meeting including the time, date, place of the meeting, and the business to be dealt with at the meeting at least at least 21 days before the date of the relevant meeting.

1.4.5 meeting papers and any associated documentation to be made available on the Trust website not less than three working days before the meeting

1.5. An accidental omission to give notice or make available any document or information relating to the meeting, or the non-receipt of any such notice, document or information by a person entitled to receive any such notice, document or information shall not invalidate the proceedings at that meeting.

1.6. The chair, or in his or her absence, the deputy chair shall preside at all members' meetings of the Trust. If neither the chair nor the deputy chair is present, the governors present shall elect one of their members to act as chair.

1.7. The quorum for a members' Council meeting is 10 members present and entitled to vote. If a quorum is not present within thirty minutes from the time appointed for the meeting, the meeting shall stand adjourned for a minimum of seven days until such time as the Council of Governors determine.

1.8. The chair may, with the consent of a members' meeting at which a quorum is present (and shall, if so directed by the meeting); adjourn a members' meeting from time-to-time and from place to place or for an indefinite period.

1.9. A resolution put to the vote of a members' meeting shall be decided on a show of hands.

1.10. No business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place.

1.11. If the Board of Directors, in its absolute discretion, considers that it is impractical or unreasonable for any reason for a members' meeting to be held at the time, date or place specified in the notice calling that meeting, it may move and/or postpone the general meeting to another time, date and/or place.

1.12. In the case that a members' meeting is postponed for a period of one month or more, at least seven working days' notice specifying the time and place of the adjourned members' meeting and the business to be transacted.

1.13. The Board of Directors may make any arrangement and impose any restrictions it considers appropriate to ensure the security of a members' meeting.

1.14. Any approval to speak at a members' meeting is subject to the chair's discretion. Speeches must be directed to the matter, motion or question under discussion or to a point of order. Unless, in the opinion of the chair, it would not be appropriate or desirable to time limit speeches on any topic to be discussed having regard to its nature, complexity or importance, no proposal, speech or any reply may exceed three minutes. In the interests of time, the chair may, in their absolute discretion, and where that discretion is exercised reasonably, limit the number of replies, questions or speeches which are heard at any one members' meeting.

1.15. A person who has already spoken on a ma
speak again at that meeting in respect of the same matter except (i) in exercise of a right of reply, or (ii) on a point of order.

1.16. The Board of Directors shall ensure that minutes to be made and kept, in writing, of all proceedings at the Annual Me m b e r s' Meeting.

TABLE RECORDING CHANGES

Change History

Date	Reason	Change summary	Review date	Approval
March 2013	Monitor request	To reflect changes as set out the Health and Social Care Act 2012	April 2013	2nd May 2013 Council of Governors
April 2013	Annual review	Minor amendments to update Appointed Governor organisation names	April 2014	12th September 2013 Annual Members Meeting
April 2014	Annual Review			
September 2015	Annual Review			
May 2016	Annual Review	To reflect changes to include electronic voting		5th May 2016 Council of Governors
October 2017	Annual Review	To reflect change from Monitor to NHS Improvement, Elections nominations process to no longer require supporters and to allow the use of non-voting non executives. To remove references to ó i n i t i a l ô p r relating to appointment of execs and NEDS. To adjust the size of the Board from 11 to 13 (an additional ONE NED and ONE exec)		7th December 2017
March 2019	Review	To reflect current best practice on conflicts of interest and the addition of new Annex 11 & 12	August 2019	
August 2019	Review	Minor amendments, mostly cosmetic in nature to ensure document flows better	August 2020	
October 2019	Proofing review	To ensure correct numbering	September 2020	
January 2023	Review	Minor amendments to reflect some of the changes as a result of the Health & Social Care Act 2022, Equality Delivery System terminology and general housekeeping	March 2024	5th April 2023 Council of Governors
December 2024	Review	Minor amendments to reflect change to Staff Constituency following TUPE of DIHC staff.		19th December 2024

		Replacement of the Public Contact Regulations (2015) with Procurement Act 2023 effective from Oct 2024 Update to the scheme of delegations to reflect changes to the Trust tier one committee structure		