

**UNIQUE IDENTIFIER NO: G-1C-2017**

**Review Date: April 2024**

**Review Lead: Company Secretary**

---

**CONSTITUTION OF THE**

**CALDERDALE AND HUDDERSFIELD NHS FOUNDATION TRUST**

**(A PUBLIC BENEFIT CORPORATION)**

---

<b>Version:</b>	<p>2.0 Review and update including:</p> <ul style="list-style-type: none"><li>- Expenses clarification</li><li>- References to Monitor / NHS Improvement</li><li>- Typographical amends</li></ul> <p>2.1 Addition of partner governor May 2019</p> <p><i>3.0 April 2021</i></p> <p>14.1.5 An elected governor who completes the maximum 6 year tenure may stand for re-election after a period of 2 years has elapsed since the end of their tenure</p> <p>14.3 removal of reserve register</p> <p>Annexe 1 - addition of Rest of England constituency</p> <p><i>4.0 13 January 2022</i></p> <p>25.4 Change to NED eligibility criteria</p> <p><i>5.0 July 2022</i></p> <p>24.0 Change to the Board of Directors composition to increase the number of Non-Executive Directors to up to 7 and the number of Executive Directors to up to 7.</p>
<b>Approved by:</b>	Council of Governors
<b>Date approved:</b>	<p>Version 1 - 17 January 2017</p> <p>Version 2 - 17 October 2019</p> <p>Version 3 - 22 April 2021</p> <p>Version 4 - 13 January 2022</p> <p>Version 5 – 7 July 2022</p>
<b>Date issued:</b>	7 July 2022
<b>Next Review date:</b>	As required, as a minimum every three years (2024)

## TABLE OF CONTENTS

Section	Page
1 Definitions	4
2 Name and Status	6
3 Head Office and website	6
4 Purpose	6
5 Powers	6
6 Membership & Constituencies	7
7 Members	7
8 Disqualification from membership	8
9 Termination of membership	8
10 Annual Members' Meetings	9
11 Council of Governors – composition	9
12 Council of Governors – election of Governors	9
13 Council of Governors – appointed Governors	9
14 Council of Governors – tenure for Governors	10
15 Council of Governors – vacancies amongst Governors	10
16 Council of Governors – disqualification and removal	11
17 Council of Governors – termination of office and removal of Council of Governors	11
18 Council of Governors – duties of Governors	12
19 Council of Governors – meetings of the Council of Governors	12
20 Council of Governors – standing orders	12
21 Council of Governors – conflicts of interest	13
22 Council of Governors – expenses	13
23 Board of Directors – general duty	13
24 Board of Directors – composition	13
25 Board of Directors – appointment and removal of the Chair, Deputy Chair and other non-executive directors	14
26 Board of Directors – Senior Independent Director	14
27 Board of Directors – tenure of non-executive directors	15
28 Board of Directors – appointment and removal of the Chief Executive and other executive directors	16
29 Board of Directors – disqualification	16
30 Board of Directors – meeting	16
31 Board of Directors – standing orders	17
32 Board of Directors – conflicts of interest of directors	17
33 Board of Directors – remuneration and expenses	18
34 Secretary	19
35 Registers	19
36 Documents available for public inspection	19
37 Auditors	20
38 Audit and Risk Committee	20
39 Accounts	20
40 Annual report, forward plans and non-NHS work	21
41 Indemnity	21
42 Seal	22
43 Dispute Resolution Procedures	22
44 Amendment of the Constitution	22
45 Mergers etc. and significant transactions	23
46 Dissolution of the Trust	23

Annexe 1	Public Constituencies	24
Annexe 2	Election Rules	27
Annexe 3	Further provisions	51
Annexe 4	Annual Members' Meeting	52
Annexe 5	Roles and responsibilities of Governors	54
Annexe 6	Composition of the Council of Governors	55
Annexe 7	Council of Governors – standing orders	56
Annexe 8	Board of Directors – standing orders	73

## CONSTITUTION FOR THE CALDERDALE AND HUDDERSFIELD NHS FOUNDATION TRUST

### 1. Definitions

- 1.1. Unless otherwise stated words or expressions contained in this constitution bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.
- 1.2. References in this constitution to legislation include all amendments, replacements, or re-enactments made.
- 1.3. Headings are for ease of reference only and are not to affect interpretation.
- 1.4. Words importing the masculine gender only shall include the feminine gender; words importing the singular shall include the plural and vice-versa.

- 1.5. In this constitution:

The Accounting Officer	is the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act.
The 2006 Act	means the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.
The 2012 Act	is the Health and Social Care Act 2012.
Annual Members' Meeting	is defined in paragraph 10 of the constitution.
Appointed Council Member	means those Governors appointed by the Appointing Organisations;
Appointing Organisations	means those organisations named in this constitution who are entitled to appoint Governors;
Areas of the Trust	the areas specified in Annexe 1;
Authorisation	means an authorisation given by Monitor
Board of Directors	means the Board of Directors as constituted in accordance with this constitution;
Director	means a member of the Board of Directors
Non-Executive Directors	means the Chair and non-executives on the Board of Directors;

Elected Council Member"	means those Governors elected by the public constituency and the staff constituency;
Financial year	means: (a) a period beginning with the date on which the Trust is authorised and ending with the next 31 March; and (b) each successive period of twelve months beginning with 1 April;
Monitor	is the former name for the Trust's regulator, as provided by Section 61 of the 2012 Act;
Local Authority Council Member	means a Member of the Council of Governors appointed by one or more Local Authorities whose area includes the whole or part of the area of the Trust;
Member	means a Member of the Trust;
Council of Governors	means the Council of Governors as constituted by this constitution and referred to as the Board of Governors/ Council of Governors in the 2006 Act;
The NHS Trust	means the NHS Trust which made the application to become the Trust;
Other Partnership Council Member	means a Member of the Council of Governors appointed by a Partnership Organisation other than a Primary Care Trust or Local Authority;
Public Constituency	means those individuals who live in an area specified as an area for any public constituency;
Public Council Member	means a Member of the Council of Governors elected by the Members of the public constituency;
Secretary	means the Board Secretary of the Trust or any other person appointed to perform the duties of the Secretary;
Staff Constituency	means those individuals who are eligible for Trust membership by reason of 8.5-8.9 of this Constitution are referred to collectively as the Staff Constituency;
Staff Council Member	means a Member of the Council of Governors appointed by the Members of one of the classes of the constituency of the staff membership;
The Trust	means Calderdale & Huddersfield NHS Foundation Trust.

## 2. Name and status

- 2.1. The name of this Trust is “Calderdale and Huddersfield NHS Foundation Trust”.

## 3. Head Office and Website

- 3.1. The Trust’s head office for the purpose of this Constitution is at Trust Offices, Huddersfield Royal Infirmary, Acre Street, Lindley, Huddersfield, HD3 3EA, or any other address decided by the Council of Governors.
- 3.2. The Trust will maintain a website, the address of which is [www.cht.nhs.uk](http://www.cht.nhs.uk) or any other address decided by the Council of Governors.

## 4. Purpose

- 4.1. The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England.
- 4.2. The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
- 4.3. The Trust may provide goods and services for any purposes related to:-
- 4.3.1. the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
  - 4.3.2. the promotion and protection of public health.
- 4.4. The Trust may also carry out activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry out its principal purpose.

## 5. Powers

- 5.1. The powers of the Trust are set out in the 2006 Act.
- 5.2. All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.
- 5.3. Any of these powers may be delegated to a committee of directors or to an executive director.
- 5.4. The Trust may do anything which appears to it to be necessary or desirable for the purposes of or in connection with its functions.
- 5.5. In particular it may:
- 5.5.1. acquire and dispose of property;
  - 5.5.2. enter into contracts;
  - 5.5.3. accept gifts of property (including property to be held on Trust for the purposes of the Trust or for any purposes relating to the health service);
  - 5.5.4. employ staff.

- 5.6. Any power of the Trust to pay remuneration and allowances to any person includes the power to make arrangements for providing, or securing the provision of pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).
- 5.7. The Trust may borrow money for the purposes of or in connection with its functions, subject to the limit published by NHS Improvement from time to time.
- 5.8. The Trust may invest money (other than money held by it as Trustee) for the purposes of or in connection with its functions. The investment may include investment by:
  - 5.8.1. forming, or participating in forming bodies corporate;
  - 5.8.2. otherwise acquiring membership of bodies corporate.
- 5.9. The Trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its function.

## **6. Membership and Constituencies**

- 6.1. The Trust shall have members, each of whom shall be a member of one of the following constituencies:
  - 6.1.1. A public constituency
  - 6.1.2. A staff constituency

## **7. Members**

- 7.1. The Members of the Trust are those individuals whose names are entered in the register of members. Every Member is either a Member of one of the public constituencies or a Member of the staff constituency.
- 7.2. Subject to this Constitution, Membership is open to any individual who:
  - 7.2.1. is over 16 years of age;
  - 7.2.2. is entitled under this Constitution to be a Member of the public constituencies, or staff constituency; and
  - 7.2.3. completes or has completed a membership application form in whatever form the Council of Governors approves or specifies.

### **Public Membership**

- 7.3. There are eight public constituencies corresponding to the areas served by the Trust as set out in Annexe 1. Members of each constituency are to be individuals:
  - 7.3.1. who live in the relevant area of the Trust;
  - 7.3.2. who are not eligible to be Members of the staff constituency; and
  - 7.3.3. who are not Members of another public constituency.
- 7.4. The minimum number of members of each of the public constituencies is to be 50.

## **Staff Membership**

- 7.5. There is one staff constituency for staff membership. It is to divide into four classes as follows with five seats:
  - 7.5.1. doctors or dentists (x1);
  - 7.5.2. Allied Health Professionals, Health Care Scientists or Pharmacists (x1);
  - 7.5.3. Management, administration and clerical (x1);
  - 7.5.4. Nurses and midwives (x2).
- 7.6. Members of the staff constituency are to be individuals:
  - 7.6.1. who are employed under a contract of employment by the Trust and who either:
    - 7.6.1.1. are employed by the Trust under a contract of employment which has no fixed term or a fixed term of at least 12 months, or
    - 7.6.1.2. who have been continuously employed by the Trust for at least 12 months; or
  - 7.6.2. who are not so employed but who nevertheless exercise functions for the purposes of the Trust and have exercised the functions for the purposes of the Trust for at least 12 months.
- 7.7. Individuals entitled to be Members of the staff constituency are not eligible to be Members of the public constituency.
- 7.8. The Secretary is to decide to which class a staff member belongs.
- 7.9. The minimum number of members in each class of the staff membership is to be 20.

## **Automatic membership by default – Staff**

- 7.10. An individual who is:
  - 7.10.1. Eligible to become a member of the Staff Constituency, and
  - 7.10.2. Invited by the Trust to become a member of the Staff Constituency,

Shall become a member of the Trust as a member of the Staff Constituency without an application being made, unless he / she informs the Trust that he / she does not wish to do so.

## **8. Disqualification from membership**

- 8.1. A person may not be a member of the Trust if, in the opinion of the Council of Governors, there are reasonable grounds to believe that they are likely to act in a way detrimental to the interests of the Trust.

## **9. Termination of membership**

- 9.1. A Member shall cease to be a Member if:
  - 9.1.1. they resign by notice to the Company Secretary;
  - 9.1.2. they die;

- 9.1.3. they are disqualified from Membership by paragraph 7;
- 9.1.4. they cease to be entitled under this Constitution to be a Member of any of the public constituencies or the staff constituency.

- 9.2. 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 Annexe 3 – Further Provisions.

## **10. Annual Members' Meetings**

- 10.1. The Trust is to hold an annual meeting of its members. The Annual Members Meeting shall be open to members of the public.
- 10.2. Further provisions about the Annual Members' Meeting are set out in Annexe 4 – Annual Members' Meeting.

## **11. Council of Governors - 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 Appendix 6 – Composition of the Council of Governors.
- 11.3. The composition of the Council of Governors, subject to the 2006 Act, shall seek to ensure that:
  - 11.3.1. the interests of the community served by the Trust are appropriately represented;
  - 11.3.2. the level of representation of the public constituencies, the staff constituency and the partnership organisations strikes an appropriate balance having regard to their legitimate interest in the Trust's affairs.;

## **12. Council of Governors – elections of Governors**

- 12.1. Public Governors are to be elected by Members of the public constituencies, and Staff Governors by Members of the staff constituency.
- 12.2. The Election procedures including the arrangements governing nominations, the advertisement of candidates, rules regarding canvassing voting, and the election of reserves to fill casual vacancies are to be determined by the election rules, set out in Annexe 2 – Election Rules.

## **13. Council of Governors - appointed Governors**

- 13.1. Local Authority Governors  
The Secretary, having consulted each Local Authority whose areas includes the whole or part of the area of the Trust is to adopt a process for agreeing the appointment of Local Authority Councils Member with those Local Authorities.
- 13.2. Partnership Governors

The Company Secretary, having consulted each partnership organisation is to adopt a process for agreeing the appointment of Partnership Governors with those partnership organisations.

#### **14. Council of Governors - tenure for Governors**

##### **14.1. Elected Governors:**

- 14.1.1. shall hold office for a period of three years commencing immediately after the annual members meeting at which their election is announced;
- 14.1.2. subject to the next sub-paragraph are eligible for re-election after the end of that period;
- 14.1.3. may not hold office for more than six consecutive years or two terms;
- 14.1.4. cease to hold office if they cease to be a Member of the constituency by which they were elected, or if they are disqualified for any of the reasons set out in this Constitution.
- 14.1.5. An elected governor who completes the maximum 6 year tenure may stand for re-election after a period of 2 years has elapsed since the end of their tenure.

##### **14.2. Appointed Governors:**

- 14.2.1. shall hold office for a period of 3 years commencing immediately after the annual members meeting at which their appointment is announced;
- 14.2.2. subject to the next sub-paragraph are eligible for re-appointment after the end of that period;
- 14.2.3. may not hold office for longer than 6 consecutive years;
- 14.2.4. shall cease to hold office if the Appointing Organisation terminates their appointment.
- 14.2.5. cease to hold office if they cease to be a Member of the constituency by which they were elected, or if they are disqualified for any of the reasons set out in this Constitution.

#### **15. Council of Governors - vacancies amongst Governors**

- 15.1. Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the following provisions will apply.
- 15.2. Where the vacancy arises amongst the Appointed Governors, the Secretary shall request that the Appointing Organisation appoints a replacement to hold office for the remainder of the term of office.
- 15.3. Where the vacancy arises amongst the elected Council Member, the Council of Governors shall be at liberty either:
  - 15.3.1. to call an election within three months to fill the seat for the remainder of that term of office, or
  - 15.3.2. where a vacancy arises within 6 months to invite the next highest polling candidate for that seat at the most recent election, who is willing to take office to fill the seat until the next annual election, at which time

the seat will become vacant and subject to election for any unexpired period of the term of office.

- 15.3.3. If the vacancy arises during the last 6 months of office, the office will remain vacant until it is filled at the next scheduled election term

## **16. Council of Governors – disqualification and removal**

- 16.1. A person may not become a Council Member of the Trust, and if already holding such office will immediately cease to do so if:
  - 16.1.1. they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
  - 16.1.2. they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;
  - 16.1.3. they have within the preceding five years, been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them.
  - 16.1.4. they are a Director or Company Secretary of this Trust, a Director of another NHS Trust or a Council Member or Non-Executive Director of another NHS Foundation Trust;
  - 16.1.5. they are under 16 years of age;
  - 16.1.6. they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
  - 16.1.7. 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;

## **17. Council of Governors - termination of office and removal of Governors**

- 17.1. A person holding office as a Council Member shall immediately cease to do so if:
  - 17.1.1. they resign by notice in writing to the Secretary;
  - 17.1.2. they fail to attend two meetings in any 12 month period, unless the other Governors are satisfied that:
    - 17.1.3. the absences were due to reasonable causes; and
    - 17.1.4. they will be able to start attending meetings of the Trust again within such a period as they consider reasonable.
  - 17.1.5. in the case of an elected Governor, they cease to be a member of the constituency by whom they were elected;
  - 17.1.6. in the case of an appointed Governor, the appointing organisation terminates the appointment;
  - 17.1.7. they have failed to undertake any training which the Council of Governors requires all Governors to undertake;
  - 17.1.8. they have failed to sign and deliver to the Secretary a statement in the form required by the Council of Governors confirming acceptance of the code of conduct for Governors;
  - 17.1.9. they refuse to sign a declaration in the form specified by the Council of Governors that they are a member of a specific public constituency and

are not prevented from being a member of the Council of Governors.  
This does not apply to staff members;

17.1.10. they are removed from the Council of Governors under the following provisions.

17.2. A Council Member may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors Members present and voting at a general meeting of the Council of Governors on the grounds that:

- 17.2.1. they have committed a serious breach of the code of conduct; or
- 17.2.2. they have acted in a manner detrimental to the interests of the Trust; and
- 17.2.3. the Council of Governors consider that it is not in the best interests of the Trust for them to continue as a Governor.

## **18. Council of Governors – duties of Governors**

18.1. The general duties of the Council of Governors are:

- 18.1.1. to hold the non-executive directors individually and collectively to account for the performance of the Board of Directors;
- 18.1.2. to represent the interests of the members of the Trust as a whole and the interests of the public;

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

18.3. The Council of Governors shall appoint at a general meeting one of its public members to be Lead Governor of the Council of Governors.

18.4. The specific roles and responsibilities of the Council of Governors are set out in Annexe 5 – Roles and Responsibilities.

## **19. Council of Governors – meetings of the Council of Governors**

19.1. The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed with the provisions of paragraph 26 below) or, in his absence the Deputy Chair (appointed in accordance with the provisions of paragraph 26 below), shall preside at meetings of the Council of Governors.

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

19.3. For the purposes of obtaining information about the Trust's performance of its functions or the directors' performance of their duties, the Council of Governors may require one or more of the directors to attend a meeting.

## **20. Council of Governors – standing orders**

20.1. The standing orders for the practice and procedure of the Council of Governors and its meetings are included in a separate document which is attached at Annexe 8.

## **21. Council of Governors – conflicts of interest**

- 21.1. If a Council of Governors has a pecuniary, personal or family interest, whether that interest is actual or potential, or 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 councillor shall disclose that interest to the members of the Council of Governors as soon as they become aware of it.
- 21.2. 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 the consideration of the matter in respect of which an interest has been disclosed. This should be in line with the NHS England guidance on Conflicts of Interest.
- 21.3. The Standing Orders for the Council of Governors are attached at Annexe 7.

## **22. Council of Governors - expenses**

- 22.1. The Trust may pay travelling and other expenses to Governors at such rates as it decides. These are set out in the Standing Orders for the Council of Governors at Annexe 7 and are to be disclosed in the annual report.
- 22.2. Expenses claims must be submitted in line with the Trust's expenses policy.
- 22.3. Governors are not to receive remuneration.

## **23. Board of Directors – general duty**

- 23.1. The business of the Trust is to be managed by the Board of Directors, who (subject to this Constitution) shall exercise all the powers of the Trust. 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 as to maximise the benefits for the members of the Trust as a whole and for the public.
- 23.2. A third party dealing in good faith with the Trust shall not be affected by any defect in the process by which Directors are appointed or any vacancy on the Board of Directors.

## **24. Board of Directors – composition**

- 24.1. The Trust is to have a Board of Directors. It is to consist of Executive and Non-Executive Directors.
- 24.2. The Board of Directors is to comprise:
  - 24.2.1. a Non-Executive Chair;
  - 24.2.2. up to 7 other Non-Executive Directors;
  - 24.2.3. up to 7 Executive Directors.
- 24.3. One of the Executive Directors shall be the Chief Executive who shall be the Accounting Officer.

- 24.4. One of the Executive Directors shall be the Finance Director.
- 24.5. One of the Executive Directors is to be a registered medical practitioner.
- 24.6. One of the Executive Directors is to be a registered nurse or a registered midwife.

## **25. Board of Directors – appointment and removal of the Chair, Deputy Chair and other Non-Executive Directors**

- 25.1. The Council of Governors shall appoint a Chair of the Trust.
- 25.2. The Board of Directors will appoint one Non-Executive Director to be Deputy Chair of the Trust. This individual may, through agreement with the Chair, take on the role of Senior Independent Non-Executive Director (SINED).
- 25.3. The Chair and Deputy Chair will be the Chair and Deputy Chair of both the Council of Governors and the Board of Directors.
- 25.4. To be eligible for appointment as a Non-Executive Director of the Trust the candidate must demonstrate a commitment to the Trust and the communities it serves and live within reasonable travelling distance.
- 25.5. The Council of Governors at a general meeting shall appoint or remove the Chair of the Trust and the other Non-Executive Directors.
- 25.6. Non-Executive Directors are to be appointed by the Council of Governors using the following procedure:
  - 25.6.1. The Board of Directors will work with the external organisations recognised as expert in non-executive appointments to identify the skills and experience required
  - 25.6.2. Appropriate candidates will be identified by the Board of Directors who meet the skills and experience required
  - 25.6.3. A sub-committee of the Council of Governors (not exceeding four persons) including the Chair, will interview a short list of candidates and recommend a candidate for appointment by the Council of Governors.
- 25.7. Removal of the Chair or other Non-Executive Director shall require the approval of three-quarters of the Council of Governors.
- 25.8. The Board of Directors shall appoint one Non-Executive Director to be the Deputy Chair of the Trust.

## **26. Board of Directors – Senior Independent Director**

- 26.1. The Board of Directors will appoint one Non-Executive Director to be the Senior Independent Director.
- 26.2. The Trust has a detailed job description for the Senior Independent Director. The main duties include:

- 26.2.1. Being available to members of the Foundation Trust and to the Council of Governors if they have concerns that contact through the usual channels of Chair, Chief Executive, Finance Director and Company Secretary has failed to resolve or where it would be inappropriate to use such channels. In addition to the duties described here the Senior Independent Director has the same duties as the other Non-Executive Directors.
- 26.2.2. A key role in supporting the Chair in leading the Board of Directors and acting as a sounding board and source of advice for the Chair. The Senior Independent Director also has a role in supporting the Chair as Chair of the Council of Governors.
- 26.2.3. While the Council of Governors determines the process for the annual appraisal of the chair, the senior independent director is responsible for carrying out the appraisal of the chair on its behalf.
- 26.2.4. The Senior Independent Director should maintain regular contact with the Governors and attend meetings of the Council of Governors to obtain a clear understanding of Council of Governors views on the key strategic performance issues facing the Foundation Trust. The Senior Independent Director should also be available to Governors as a source of advice and guidance in circumstances where it would not be appropriate to involve the chair; chair's appraisal or setting the chair's objectives for example.
- 26.2.5. In rare cases where there are concerns about the performance of the chair the Senior Independent Director should provide support and guidance to the Council of Governors in seeking to resolve concerns or in the absence of a resolution in taking formal action. Where the foundation Trust has appointed a lead Governor the Senior Independent Director should liaise with the Lead Governor in such circumstances.
- 26.2.6. In circumstances where the board is undergoing a period of stress the Senior Independent Director has a vital role in intervening to resolve issues of concern. These might include unresolved concerns on the part of the Council of Governors regarding the chair's performance; where the relationship between the chair and the chief executive is either too close or not sufficiently harmonious, where the Foundation Trust's strategy is not supported by the whole Board or where key decisions are being made without reference to the Board or where succession planning is being ignored.
- 26.2.7. In the circumstances outlined above, the Senior Independent Director will work with the chair, other directors and/or Governors, to resolve significant issues.

## **27. Board of Directors – tenure of Non-Executive Directors**

- 27.1. The Chair and the Non-Executive Directors are to be appointed for a period of three years.
- 27.2. The Chair and the Non-Executive Directors will serve for a maximum of two terms.

- 27.3. In exceptional circumstances a Non-Executive Director (including the Chair) may serve longer than six years (two three-year terms). Any subsequent appointment will be subject to annual re-appointment. Reviews will take into account the need to progressively refresh the Board whilst ensuring its stability. Provisions regarding the independence of the Non-Executive Director will be strictly observed.

## **28. Board of Directors – appointment and removal of the Chief Executive and other executive directors**

- 28.1. The Non-Executive Directors shall appoint or remove the Chief Executive.
- 28.2. The appointment of the Chief Executive requires the approval of the Council of Governors.
- 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 – disqualification**

- 29.1. A person may not become or continue as a Director of the Trust if:
- 29.1.1. they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
  - 29.1.2. they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;
  - 29.1.3. they have within the preceding five years been convicted in the British Islands of any offence, and a sentenced of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
  - 29.1.4. they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
  - 29.1.5. they are a person whose tenure of office as a 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;
  - 29.1.6. they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
  - 29.1.7. in the case of a Non-Executive Director they have failed to fulfil any training requirement established by the Board of Directors; or
  - 29.1.8. they have failed to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for Directors and fit and proper persons test; or

## **30. Board of Directors - meetings**

- 30.1. Meetings of the Board of Directors shall be open to members of the public unless the Board of Directors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chair may

exclude any member of the public from a meeting of the Board of Directors if they are interfering with or preventing the proper conduct of the meeting.

- 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.
- 30.3. 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 – standing orders**

- 31.1. The standing orders for the practice and procedure of the Board of Directors are attached at Annexe 8.

### **32. Board of Directors – conflicts of interest of directors**

- 32.1. The duties that a director of the Trust has by virtue of being a director include in particular –
  - 32.1.1. 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.
  - 32.1.2. 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.
- 32.2. The duty referred to in sub-paragraph 31.1.1 is not infringed if –
  - 32.2.1. The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or
  - 32.2.2. The matter has been authorized in accordance with the constitution.
- 32.3. 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.
- 32.4. In sub-paragraph 31.1.2, “third party” means a person other than –
  - 32.4.1. The Trust, or
  - 32.4.2. A person acting on its behalf.
- 32.5. 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.
- 32.6. If a declaration under this paragraph proves to be, or becomes, inaccurate, incomplete, a further declaration must be made.
- 32.7. Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.
- 32.8. 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.

- 32.9. A director need not declare an interest –
- 32.9.1. If it cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - 32.9.2. If, or to the extent that, the directors are already aware of it;
  - 32.9.3. If, or to the extent that, it concerns terms of the director's appointment that have been or are to be considered –
    - 32.9.3.1. By a meeting of the Board of Directors, or
    - 32.9.3.2. By a committee of the directors appointed for the purpose under the constitution.
- 32.10. Any Director who has a material interest in a matter as defined below shall declare such interest to the Board of Directors and it shall be recorded in a register of interests and the Director in question:
- 32.10.1. shall not be present except with the permission of the Board of Directors in any discussion of the matter, and
  - 32.10.2. shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 32.11. Any Director who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Directors.
- 32.12. A material interest in a matter is any interest (save for the exceptions referred to below) held by a Director or their spouse or partner in any firm or company or business which, in connection with the matter, is trading with the Trust, or is likely to be considered as a potential trading partner with the Trust, including private healthcare organisations and other foundation Trusts.
- 32.13. The exceptions which shall not be treated as material interests are as follows:
- 32.13.1. shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange.

### **33. Board of Directors – remuneration and expenses**

- 33.1. The Board of Directors shall appoint an executive remuneration committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and Executive Directors.
- 33.2. The remuneration and allowances, and the other terms and conditions of office, of the Chair and Non-Executive Directors shall be decided by the Council of Governors at a general meeting. The Council of Governors may take advice from independent pay advisors whose Terms of Reference will be established and ratified by the Board of Directors and the Council of Governors.
- 33.3. The remuneration and allowances for Directors are to be disclosed in the annual report.

## **34. Secretary**

- 34.1. The Trust shall have a Secretary who may be an employee. The Secretary may not be a Council Member, or the Chief Executive or the Finance Director. The Secretary shall be accountable to the Chief Executive and their functions shall include:
- 34.1.1. acting as Secretary to the Council of Governors and the Board of Directors, and any committees;
  - 34.1.2. summoning and attending all members meetings, meetings of the Council of Governors and the Board of Directors, and keeping the minutes of those meetings;
  - 34.1.3. keeping the register of members and other registers and books required by this Constitution to be kept;
  - 34.1.4. having charge of the Trust's seal;
  - 34.1.5. publishing to members in an appropriate form information which they should have about the Trust's affairs;
  - 34.1.6. preparing and sending to NHS Improvement and any other statutory body all returns which are required to be made;
  - 34.1.7. providing support to the Council of Governors and the Non-Executive Directors;
  - 34.1.8. overseeing elections conducted under this Constitution;
  - 34.1.9. offering advice to the Council of Governors and the Board of Directors on issues of governance and corporate responsibility.
- 34.2. Minutes of every members meeting, of every meeting of the Council of Governors and of every meeting of the Board of Directors are to be kept. Minutes of meetings will be included on the agenda of the next meeting.

## **35. Registers**

- 35.1. The Trust is to have:
- 35.1.1. a Register of Members showing, in respect of each Member, the name of the member, the constituency to which they belong and, (where the Council of Governors has decided that the Membership of the Public, or Staff constituencies shall be sub-divided for election purposes) any sub-division of that constituency to which they belong;
  - 35.1.2. a Register of Members of the Council of Governors;
  - 35.1.3. a Register of Directors;
  - 35.1.4. a Register of Interests of Governors
  - 35.1.5. a Register of Interests of the Directors.
- 35.2. The Secretary shall add to the Register of Members any individual who becomes a Member of the Trust or remove from the Register of Members the name of any Member who ceases to be entitled to be a Member under the provisions of this Constitution.

## **36. Documents available for public inspection**

- 36.1. The following documents of the Trust are to be available for inspection by members of the public. If the person requesting a copy or extract under this

paragraph is not a member of the Trust, the Trust may impose a reasonable charge for doing so.

- 36.1.1. a copy of the current Constitution;
- 36.1.2. a copy of the current Authorisation;
- 36.1.3. a copy of the latest annual accounts and of any report of the auditor on them;
- 36.1.4. a copy of the report of any other auditor of the Trust's affairs appointed by the Council of Governors;
- 36.1.5. a copy of the latest annual report;
- 36.1.6. a copy of the latest information as to its forward planning;
- 36.1.7. a copy of the Trust's Membership Strategy;
- 36.1.8. a copy of any notice given under section 52 of the 2006 Act (Monitor's notice to failing NHS Foundation Trust).
- 36.1.9. The register of Members shall be made available for inspection by members of the public. Article 2(b) of the Public Benefit Corporation (Register of Members) Regulations 2004 allows for members to request their details are not published as part of the Register of Members.

### **37. Auditors**

- 37.1. The Trust is to have an auditor and is to provide the auditor.
- 37.2. The Council of Governors at a general meeting shall appoint or remove the Trust's auditors.
- 37.3. The auditor is to carry out his duties in accordance with Schedule 7 to the 2006 Act and in accordance with any directions given by NHS Improvement standards, procedures and techniques to be adopted.

### **38. Audit and Risk Committee**

- 38.1. The Trust shall establish a committee of Non-Executive Directors as an Audit and Risk Committee to perform such monitoring, reviewing and other functions as are appropriate.

### **39. Accounts**

- 39.1. The Trust must keep proper accounts and proper records in relation to the accounts.
- 39.2. NHS Improvement may with the approval of the Secretary of State, give directions to the Trust as to the content and form of its accounts.
- 39.3. The accounts are to be audited by the Trust's auditor.
- 39.4. The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.
- 39.5. The following documents will be made available to the Auditor General for examination at their request:
  - 39.5.1. the accounts;
  - 39.5.2. any records relating to them; and

- 39.5.3. any report of the auditor on them.
- 39.6. The annual accounts, any report of the auditor on them, and the annual report are to be presented to the Council of Governors at a General Meeting.
- 39.7. The Trust shall:
  - 39.7.1. lay a copy of the annual accounts, and any report of the auditor on them, before Parliament; and
  - 39.7.2. once it has done so, send copies of those documents to NHS Improvement.

#### **40. Annual report, forward plans and non-NHS work**

- 40.1. The Trust is to prepare an Annual Report and send it to NHS Improvement.
- 40.2. The Trust is to give information as to its forward planning in respect of each financial year to NHS Improvement. The document containing this information is to be prepared by the Directors, and in preparing the document the Board of Directors shall have regard to the views of the Council of Governors.
- 40.3. Each forward plan must include information about:-
  - 40.3.1. the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on, and
  - 40.3.2. the income it expects to receive from doing so.
- 40.4. Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 39.3.1 the Council of Governors must:-
  - 40.4.1. determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions and
  - 40.4.2. notify the directors of the Trust of its determination.
- 40.5. A Trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the Council of Governors voting to approve its implementation.

#### **41. Indemnity**

- 41.1. Members of the Council of Governors and the Board of Directors and the Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust. The Trust may purchase and maintain insurance against this liability for its own benefit and the benefit of members of the Council of Governors and Board of Directors and the Secretary.

## **42. Seal**

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

## **43. Dispute Resolution Procedures**

- 43.1. Every unresolved dispute which arises out of this Constitution between the Trust and:
  - 43.1.1. a Member; or
  - 43.1.2. any person aggrieved who has ceased to be a Member within the six months prior to the date of the dispute; or
  - 43.1.3. any person bringing a claim under this Constitution; or
  - 43.1.4. an office-holder of the Trust;

is to be submitted to an arbitrator agreed by the parties. The arbitrator's decision will be binding and conclusive on all parties.

## **44. Amendment of the constitution**

- 44.1. The Trust may make amendments of its Constitution only if:-
  - 44.1.1. More than half of the members of the Council of Governors of the Trust voting approve the amendments; and
  - 44.1.2. More than half of the members of the Board of Directors of the Trust voting approve the amendments.
- 44.2. Amendments made under paragraph 43.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.
- 44.3. 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)
  - 44.3.1. At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and
  - 44.3.2. The Trust must give the members an opportunity to vote on whether they approve the amendment.
- 44.4. If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise, it ceases to have effect and the Trust must take such steps as are necessary as a result.
- 44.5. Amendments by the Trust of its constitution are to be notified to Monitor. For the avoidance of doubt, Monitor's functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

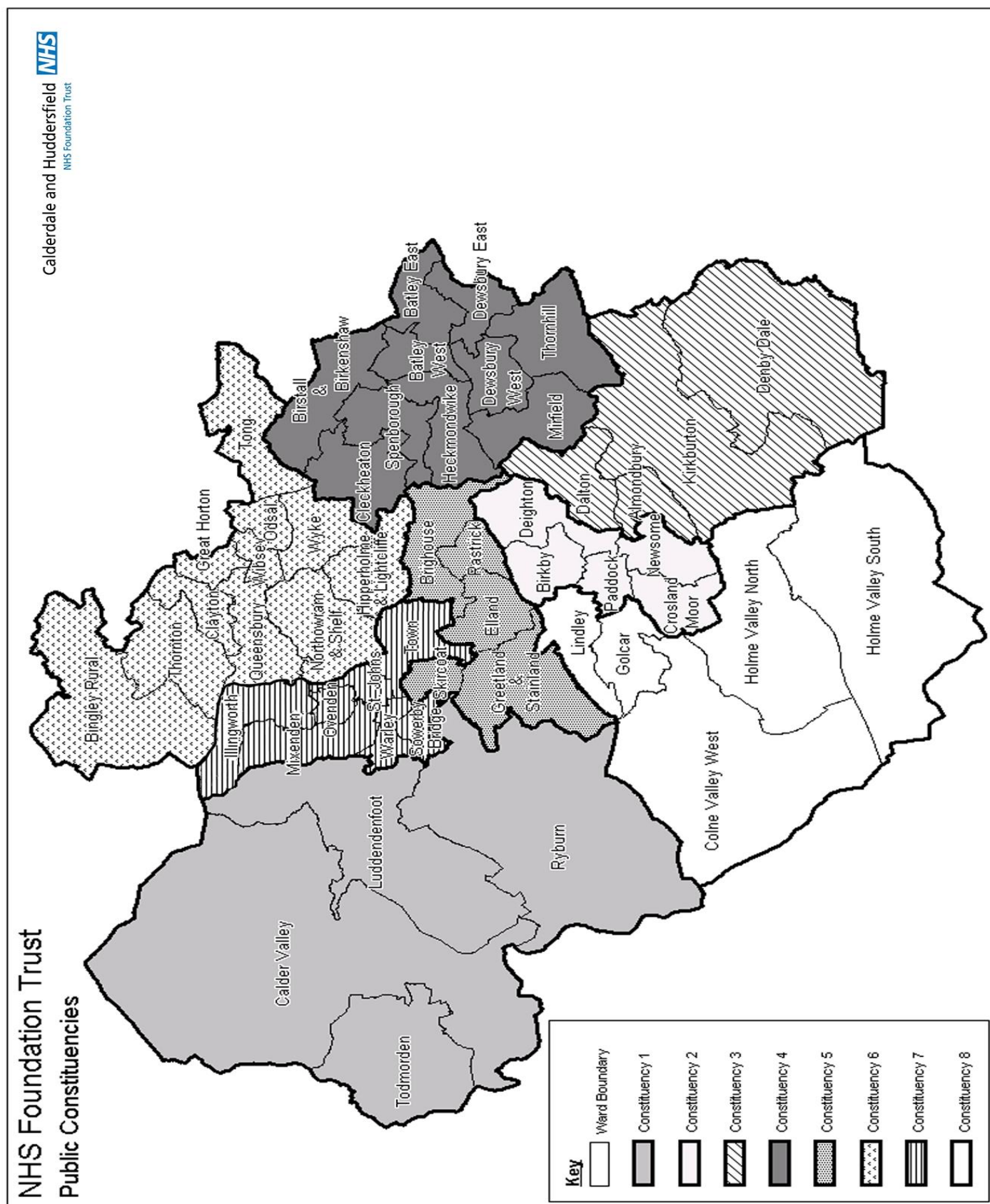
#### **45. Mergers etc. and significant transactions**

- 45.1. 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.
- 45.2. 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.
- 45.3. The constitution does not contain any descriptions of the term 'significant transaction' for the purposes of section 51A of the 2006 Act (Significant Transactions).

#### **46. Dissolution of the Trust**

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

## ANNEXE 1 – PUBLIC CONSTITUENCIES (See Map below and Rest of England)



Constituency	Wards	Population	Number of Governors to be elected
<b>1</b>	Todmorden	37,487	2
	Calder Valley		
	Luddendenfoot		
	Ryburn		
<b>2</b>	Birkby	62,501	2
	Deighton		
	Paddock		
	Crosland Moor		
	Newsome		
<b>3</b>	Dalton	56,161	2
	Almondbury		
	Kirkburton		
	Denby-Dale		
<b>4</b>	Cleckheaton	144,794	2
	Birstall & Birkenshaw		
	Spenborough		
	Heckmondwike		
	Batley West		
	Batley East		
	Mirfield		
	Dewsbury West		
	Dewsbury East		
	Thornhill		
<b>5</b>	Skircoat	47,727	2
	Greetland & Stainland		
	Elland		
	Rastrick		
	Brighouse		
<b>6</b>	Northowram & Shelf	150,326	2
	Hipperholme & Lightcliffe		
	Bingley Rural		
	Thornton		
	Clayton		
	Queensbury		
	Great Horton		
	Wibsey		
	Odsall		
	Wyke		
	Tong		
<b>7</b>	Illingworth & Mixenden	63,407	2
	Ovenden		
	Warley		
	Sowerby Bridge		
	St Johns		

Constituency	Wards	Population	Number of Governors to be elected
	Town		
<b>8</b>	Lindley	73,412	2
	Golcar		
	Colne Valley West		
	Holme Valley North		
	Holme Valley South		
<b>9</b>	<b>Rest of England</b> - any other electoral area in England with the exception of the above		<b>2</b>

## Note on Constituencies

Population data and indices of deprivation have been used to formulate the eight constituencies. Constituencies are as close as possible to one eighth of the population of Calderdale and Kirklees, though attempts to reflect Local Authority boundaries and areas of similar deprivation levels mean there is some variation. Constituencies 4 and 6 are noticeably larger because persons in these constituencies mostly use services provided by other NHS Trusts. Each Constituency comprises of several electoral areas for local government elections.

/KB/CONSTITUTION-MARCH 2006

UPDATED 13.6.06

UPDATED 16.6.06

UPDATED 20.6.06

UPDATED 31.7.06

UPDATED 12.11.07

REVIEW DATE: September 2008

DRAFT – 29.7.10

UPDATED 24.10.13

UPDATED 8.4.14 (map/constituencies)

UPDATED 20.1.15 (election rules – electronic voting)

UPDATED 14.4.21 (addition of Rest of England constituency)

## **ANNEX 2**

### **MODEL ELECTION RULES 2014**

#### **Part 1 Interpretation**

1. Interpretation

#### **Part 2 Timetable**

2. Timetable
3. Computation of time

#### **Part 3 Returning officer**

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

#### **Part 4 Stages**

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

#### **Part 5 Contested elections**

19. Poll to be taken by ballot
20. The ballot paper

#### **Action to be taken before the poll**

21. List of eligible voters
22. Notice of poll
23. Issue of voting information by returning officer
24. The covering envelope
25. E-voting systems

#### **The poll**

26. Eligibility to vote
27. Voting by persons who require assistance
28. Spoilt ballot papers
29. Lost voting information
30. Issue of replacement voting information
31. Procedure for remote voting by internet
32. Procedure for remote voting by telephone
33. Procedure for remote voting by text message

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

34. Receipt of voting documents
35. Validity of votes
36. De-duplication of votes
37. Sealing of packets

## **Part 6 Counting the votes**

- STV38. Interpretation of Part 6
- 39. Arrangements for counting of the votes
- 40. The count
- STV41. Rejected ballot papers
- FPP41. Rejected ballot papers
- STV42. First stage
- STV43. The quota
- STV44 Transfer of votes
- STV45. Supplementary provisions on transfer
- STV46. Exclusion of candidates
- STV47. Filling of last vacancies
- STV48. Order of election of candidates
- FPP48. Equality of votes

## **Part 7 Final proceedings in contested and uncontested elections**

- FPP49. Declaration of result for contested elections
- STV49. Declaration of result for contested elections
- 50. Declaration of result for uncontested elections

## **Part 8 Disposal of documents**

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

## **Part 9 Death of a candidate during a contested election**

- FPP56. Countermand or abandonment of poll on death of candidate
- STV56. Countermand or abandonment of poll on death of candidate

## **Part 10 Expenses and publicity**

- 57. Election expenses
- 58. Expenses and payments by candidates
- 59. Expenses incurred by other persons

### **Publicity**

- 60. Publicity about election by the corporation
- 61. Information about candidates for inclusion with voting information
- 62. Meaning of “for the purposes of an election”

## **Part 11 Questioning elections and irregularities**

- 63. Application to question an election

## **Part 12 Miscellaneous**

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

## Part 1 Interpretation

### 1. Interpretation

1.1 In these rules, unless the context otherwise requires:

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

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

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

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

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

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

“method of polling” means voting either by post, internet, text message or telephone

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

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

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

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

## Part 2 Timetable

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

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

### Computation of time

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

(a) a Saturday or Sunday;

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

(c) a day appointed for public thanksgiving or mourning,

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

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

### **Part 3 Returning Officer**

4.1 Subject to rule 66, the returning officer for an election is to be appointed by the corporation.

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

#### **5. Staff**

5.1 Subject to rule 66, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

#### **6. Expenditure**

6.1 The corporation is to pay the returning officer:

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

#### **7. Duty of co-operation**

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

### **Part 4 Stages**

#### **8. Notice of election**

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

- (a) the constituency, or class within a constituency, for which the election is being held,
- (b) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
- (c) the details of any nomination committee that has been established by the corporation,
- (d) the address and times at which nomination 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
- (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 corporation with a nomination paper, and
- (b) is to prepare a nomination paper for signature at the request of any member of the corporation, but it is not necessary for a nomination to be on a form supplied by the returning officer and it can, subject to rule 13, be in an electronic format.

#### **10. Candidate's particulars**

10.1 The nomination paper must state the candidate's:

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

#### **11. Declaration of interests**

11.1 The nomination paper must state:

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

(b) whether the candidate is a member of a political party, and if so, which party, and if the candidate has no such interests, the paper must include a statement to that effect.

## **12. Declaration of eligibility**

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

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

## **13. Signature of candidate**

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

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

## **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 candidate's particulars, as required by rule 10;
- (c) that the paper does not contain a declaration of the interests of the candidate, as required by rule 11,
- (d) that the paper does not include a declaration of eligibility as required by rule 12, or
- (e) that the paper is not signed and dated by the candidate, as required by rule 13.

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 paper.

## **15. Publication of statement of candidates**

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

15.2 The statement must show:

- (a) the name, contact address, 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 corporation as soon as is practicable after publishing the statement.

**16. Inspection of statement of nominated candidates and nomination papers**

16.1 The corporation is to make the statement of the candidates and the nomination papers supplied by the returning officer under rule 15.4 available for inspection by members of the corporation free of charge at all reasonable times.

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

**17. Withdrawal of candidates**

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

**18. Method of election**

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

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

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

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

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

**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.

19.3 The corporation may decide if eligible voters, within a constituency, or class within a constituency, may, subject to rule 19.4, cast their vote by any combination of the methods of polling.

19.4 The corporation may decide if eligible voters, within a constituency or class within a constituency, for whom an e-mail mailing address is included in the list of eligible voters may only cast their votes by, one or more, e-voting methods of polling.

19.5 If the corporation decides to use an e-voting method of polling then they and the returning officer must satisfy themselves that:

(a) if internet voting is being used, the internet voting system to be used for the purpose of the election is configured in accordance with these rules and that it will accurately record the internet voting record of any voter who chooses to cast their vote using the internet voting system.

- (b) if telephone voting is being used, the telephone voting system to be used for the purpose of the election is configured in accordance with these rules and that it will accurately record the telephone voting record of any voter who choose to cast their vote using the telephone voting system.
- (c) if text message voting is being used, the text message voting system to be used for the purpose of the election is configured in accordance with these rules and that it will accurately record the text voting record of any voter who choose to cast their vote using the text message voting system.

## **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 corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote by all available methods of polling, including the relevant voters and voter ID number if e-voting is a method of polling,
- (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.

## **Action to be taken before the poll**

### **21. List of eligible voters**

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

21.2 The list is to include, for each member, a postal mailing address and if available an e-mail address, where their voting information may be sent.

21.3 The corporation may decide if the voting information is to be sent only by e-mail to those members, in a particular constituency or class within a constituency, for whom an e-mail address is included in the list of eligible voters.

### **22. Notice of poll**

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

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the council of governors to be elected from that constituency, or class with that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) the methods of polling by which votes may be cast at the election by a constituency or class within a constituency as determined by the corporation in rule 19 (3).

- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the uniform resource locator (url) where, if internet voting is being used, the polling website is located.
- (h) the telephone number where, if telephone voting is being used, the telephone voting facility is located,
- (i) the telephone number or telephone short code where, if text message voting is being used, the text message voting facility is located,
- (j) the address and final dates for applications for replacement voting information, and
- (k) the contact details of the returning officer.

### **23. Issue of voting information by returning officer**

23.1 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 voting information:

(a) by post to each member of the corporation named in the list of eligible voters and on the basis of rule 21 able to cast their vote by post:

- (i) a ballot paper
- (ii) information about each candidate standing for election, pursuant to rule 61 of these rules,
- (iii) a covering envelope

(b) by e-mail or by post, to each member of the corporation named in the list of eligible voters and on the basis of rule 19.4 able to cast their vote only by an e-voting method of polling:

- (i) instructions on how to vote
- (ii) the eligible voters voter ID number
- (iii) information about each candidate standing for election, pursuant to rule 61 of these rules, or details of where this information is readily available on the internet or available in such other formats as the Returning Officer thinks appropriate.
- (iv) contact details of the returning officer.

23.2 The documents are to be sent to the mailing address or e-mail address for each member, as specified in the list of eligible voters.

### **24. The covering envelope**

24.1 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. E-voting systems**

25.1 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").

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

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

25.4 The provision of the polling website and internet voting system, will:

- (a) require a voter, to be permitted to vote, to enter his voter ID number;
- (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.

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

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

- (i) the voter ID number used by the voter;
- (ii) the candidate or candidates for whom he has voted; and
- (iii) the date and time of his vote, and

(e) if their vote has been cast and recorded, provide the voter with confirmation

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

25.5 The provision of a telephone voting facility and telephone voting system, will:

(a) require a voter to be permitted to vote, to enter his voter ID number;

(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.

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

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

- (i) the voter ID number used by the voter;
- (ii) the candidate or candidates for whom he has voted; and
- (iii) the date and time of his vote

(e) if their vote has been cast and recorded, provide the voter with confirmation;

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

25.6 The provision of a text message voting facility and text messaging voting system, will:

(a) require a voter to be permitted to vote, to provide his voter ID number;

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

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

- (i) the voter ID number used by the voter;
- (ii) the candidate or candidates for whom he has voted; and
- (iii) the date and time of his vote

(e) if their vote has been cast and recorded, provide the voter with confirmation;

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

## The poll

### 26. Eligibility to vote

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

### 27. Voting by persons who require assistance

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

27.2 Where the returning officer receives a request from a voter who requires assistance to vote, the returning officer is to make such arrangements as they consider necessary to enable that voter to vote.

### 28. Spoilt ballot papers

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

28.2 On receiving an application, the returning officer is to obtain the details of the unique identifier on the spoilt ballot paper, if they can obtain it.

28.3 The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless satisfied as to the voter’s identity.

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

- (a) is satisfied as to the voter’s identity, 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 spoilt ballot paper.

### 29. Lost voting information

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

29.2 The returning officer may not issue replacement voting information for lost voting information unless they:

- (a) are satisfied as to the voter’s identity,
- (b) have no reason to doubt that the voter did not receive the original voting information.

29.3 After issuing replacement voting information, the returning officer shall enter in a list (“the list of lost ballots”):

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

### 30. Issue of replacement voting information

30.1 If a person applies for replacement voting information under rule 28 or 29, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 28.3 or 29.2, they are also satisfied that that person has not already voted in the election.

## Polling by internet, telephone or text

### 31. Procedure for remote voting by internet

31.1 To cast their vote using the internet the voter must gain access to the polling website by keying in the url of the polling website provided in the voting information,

31.2 When prompted to do so, the voter must enter their voter ID number.

31.3 If the internet voting system authenticates the voter ID number the system must give the voter access to the polling website for the election in which the voter is eligible to vote.

31.4 To cast their vote the voter may then key in a mark on the screen opposite the particulars of the candidate or candidates for whom they wish to cast their vote.

31.5 The voter must not be able to access the internet voting facility for an election once their vote at that election has been cast.

### **32. Voting procedure for remote voting by telephone**

32.1 To cast their vote by telephone the voter must gain access to the telephone voting facility by calling the designated telephone number provided on the voter information using a telephone with a touch-tone keypad.

32.2 When prompted to do so, the voter must enter their voter ID number using the keypad.

32.3 If the telephone voting facility authenticates the voter ID number, the voter must be prompted to vote in the election.

32.4 When prompted to do so the voter may then cast his vote by keying in the code of the candidate or candidates, allocated in accordance with rule 61 of these rules, for whom they wish to vote.

32.5 The voter must not be able to access the telephone voting facility for an election once their vote at that election has been cast.

### **33. Voting procedure for remote voting by text message**

33.1 To cast their vote by text the voter must gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided on the voter information.

33.2 The text message sent by the voter must contain their voter ID number and the code for the candidate or candidates, allocated in accordance with rule 61 of these rules, for whom they wish to vote.

33.3 The text message sent by the voter must be structured in accordance with the instructions on how to vote contained in the voter information.

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

### **34. Receipt of voting documents**

34.1 Where the returning officer receives a:

(a) covering envelope, or

(b) any other envelope containing a ballot paper,

before the close of the poll, that officer is to open it as soon as is practicable; and rules 35 and 36 are to apply.

34.2 The returning officer may open any covering envelope for the purposes of rules 35 and 36, 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.

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

### **35. Validity of votes**

35.1 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.

35.2 Where the returning officer is satisfied that rule 35.1 has been fulfilled, the ballot paper is to be put aside for counting after the close of the poll.

35.3 Where the returning officer is not satisfied that rule 35.1 has been fulfilled, they should:

- (a) mark the ballot paper “disqualified”,
- (b) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and
- (c) place the document or documents in a separate packet.

35.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet, telephone or text voting record has been received by the returning officer before the close of the poll.

### **36. De-duplication of votes**

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

36.2 If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in an election they shall:

- (a) only accept as duly returned the first vote received that contained the duplicated voter ID number
- (b) mark as “disqualified” all other votes containing the duplicated voter ID number

36.3 Where a ballot paper is “disqualified” under this rule the returning officer shall:

- (a) mark the ballot paper “disqualified”,
- (b) record the unique identifier and voter id number on the ballot paper in a list (the “list of disqualified documents”); and
- (c) place the ballot paper in a separate packet.

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

- (a) mark the record as “disqualified”,
- (b) record the voter ID number on the record in a list (the “list of disqualified documents”).
- (c) disregard the record when counting the votes in accordance with these Rules.

### **37. Sealing of packets**

37.1 As soon as is possible after the close of the poll and after the completion of the procedure under rules 35 and 36, the returning officer is to seal the packets containing:

- (a) the disqualified documents, together with the list of disqualified documents inside it,
- (b) the list of spoilt ballot papers,
- (c) the list of lost ballots
- (d) the list of eligible voters, and
- (e) complete electronic copies of records referred to in rule 25 held in a device suitable for the purpose of storage.

## **Part 6 Counting the votes**

Note: the following rules describe how the votes are to be counted manually but it is expected that appropriately audited vote counting software will be used to count votes where a combination of

methods of polling is being used and votes are contained as electronic e-voting records and ballot papers.

### **STV38. Interpretation of Part 6**

STV38.1 In Part 6 of these rules:

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

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

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

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

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

“non-transferable vote” means a ballot:

(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 STV46,

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

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

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

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

“quota” means the number calculated in accordance with rule STV43,

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

“stage of the count” means:

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

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

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

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

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

“transfer value” means the value of a transferred vote calculated in accordance with rules STV44.4 or STV44.7.

### **39. Arrangements for counting of the votes**

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

### **40. The count**

40.1 The returning officer is to:

(a) count and record the number of votes that have been returned, and

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

40.2 The returning officer, while counting and recording the number of votes 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 a voter’s voter ID number.

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

**STV41. Rejected ballot papers**

STV41.1 Any ballot paper:

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

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

STV41.2 The returning officer is to endorse the word “rejected” on any ballot paper which under this rule is not to be counted.

STV41.3 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 rule STV41.1

**FPP41. Rejected ballot papers**

FPP41.1 Any ballot paper:

- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
  - (b) on which votes are given for more candidates than the voter is entitled to vote,
  - (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
  - (d) which is unmarked or rejected because of uncertainty,
- shall, subject to rules FPP41.2 and FPP41.3, be rejected and not counted.

FPP41.2 Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

FPP41.3 A ballot paper on which a vote is marked:

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

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

FPP41.4 The returning officer is to:

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under rules FPP41.2 and FPP 41.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

FPP41.5 The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings:

- (a) does not bear proper features that have been incorporated into the ballot paper,
- (b) voting for more candidates than the voter is entitled to,

- (c) writing or mark by which voter could be identified, and
  - (d) unmarked or rejected because of uncertainty,
- and, where applicable, each heading must record the number of ballot papers rejected in part.

#### **STV42. First stage**

STV42.1 The returning officer is to sort the ballots into parcels according to the candidates for whom the first preference votes are given.

STV42.2 The returning officer is to then count the number of first preference votes given on ballots for each candidate, and is to record those numbers.

STV42.3 The returning officer is to also ascertain and record the number of valid ballots.

#### **STV43. The quota**

STV43.1 The returning officer is to divide the number of valid ballots by a number exceeding by one the number of members to be elected.

STV43.2 The result, increased by one, of the division under rule STV43.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).

STV43.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules STV44.1 to STV44.3 has been complied with.

#### **STV44. Transfer of votes**

STV44.1 Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballots 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 ballots for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

STV44.2 The returning officer is to count the number of ballots in each parcel referred to in rule

STV44.3 The returning officer is, in accordance with this rule and rule STV45, to transfer each sub-parcel of ballots referred to in rule STV44.1(a) to the candidate for whom the next available preference is given on those papers.

STV44.4 The vote on each ballot transferred under rule STV44.3 shall be at a value (“the transfer value”) which:

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

STV44.5 Where at the end of any stage of the count involving the transfer of ballots, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballots 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 ballots for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

STV44.6 The returning officer is, in accordance with this rule and rule STV45, to transfer each sub-paragraph of ballots referred to in rule STV44.5(a) to the candidate for whom the next available preference is given on those ballots.

STV44.7 The vote on each ballot transferred under rule STV44.6 shall be at:

- (a) a transfer value calculated as set out in rule STV44.4(b), or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred, whichever is the less.

STV44.8 Each transfer of a surplus constitutes a stage in the count.

STV44.9 Subject to rule STV44.10, the returning officer shall proceed to transfer transferable ballots until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

STV44.10 Transferable ballots 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.

STV44.11 This rule does not apply at an election where there is only one vacancy.

STV45. Supplementary provisions on transfer

STV45.1 If, at any stage of the count, two or more candidates have surpluses, the transferable ballots 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 ballots 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 ballots of the candidate on whom the lot falls shall be transferred first.

STV45.2 The returning officer shall, on each transfer of transferable ballots under rule STV44:

- (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.

STV45.3 All ballots transferred under rule STV44 or STV45 shall be clearly marked, either individually or as a sub-paragraph, so as to indicate the transfer value recorded at that time to each vote on that ballot or, as the case may be, all the ballots in that sub-paragraph.

STV45.4 Where a ballot is so marked that it is unclear to the returning officer at any stage of the count under rule STV44 or STV45 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot as a non-transferable vote; and votes on a ballot 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.

#### **STV46. Exclusion of candidates**

STV46.1 If:

- (a) all transferable ballots which under the provisions of rule STV44 (including that rule as applied by rule STV46.11 and this rule are required to be transferred, have been transferred, and
  - (b) subject to rule STV47, one or more vacancies remain to be filled,
- the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where rule STV46.12 applies, the candidates with the then lowest votes).

STV46.2 The returning officer shall sort all the ballots on which first preference votes are given for the candidate or candidates excluded under rule STV46.1 into two sub-parcels so that they are grouped as:

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

STV46.3 The returning officer shall, in accordance with this rule and rule STV45, transfer each sub-paragraph of ballots referred to in rule STV46.2 to the candidate for whom the next available preference is given on those ballots.

STV46.4 The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.

STV46.5 If, subject to rule STV47, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable ballots, if any, which had been transferred to any candidate excluded under rule STV46.1 into sub-paragraphs according to their transfer value.

STV46.6 The returning officer shall transfer those ballots in the sub-paragraph of transferable ballots with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those ballots (thereby passing over candidates who are deemed to be elected or are excluded).

STV46.7 The vote on each transferable ballot transferred under rule STV46.6 shall be at the value at which that vote was received by the candidate excluded under rule STV46.1.

STV46.8 Any ballots on which no next available preferences have been expressed shall be set aside as non-transferable votes.

STV46.9 After the returning officer has completed the transfer of the ballots in the sub-paragraph of ballots with the highest transfer value he or she shall proceed to transfer in the same way the sub-paragraph of ballots with the next highest value and so on until he has dealt with each sub-paragraph of a candidate excluded under rule STV46.1.

STV46.10 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.

STV46.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules STV44.5 to STV44.10 and rule STV45.

STV46.12 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.

STV46.13 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.

#### **STV47. Filling of last vacancies**

STV47.1 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.

STV47.2 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.

STV47.3 Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

#### **STV48. Order of election of candidates**

STV48.1 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 STV44.10.

STV48.2 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.

STV48.3 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.

STV48.4 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.

#### **FPP48. Equality of votes**

FPP48.1 Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

### **Part 7 Final proceedings in contested and uncontested elections**

#### **FPP49. Declaration of result for contested elections**

FPP49.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

- (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the council of governors from the constituency, or class within a constituency, for which the election is being held to be elected,
- (b) give notice of the name of each candidate who they have declared elected:
  - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 33(4) of the 2006 Act, to the Chair of the NHS Trust, or
  - (ii) in any other case, to the Chair of the corporation; and
- (c) give public notice of the name of each candidate whom they have declared elected.

FPP49.2 The returning officer is to make:

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule FPP41.5, available on request.

#### **STV49. Declaration of result for contested elections**

STV49.1 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 they have declared elected –
  - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 33(4) of the 2006 Act, to the Chair of the NHS Trust, or
  - (ii) in any other case, to the Chair of the corporation, and
- (c) give public notice of the name of each candidate who they have declared elected.

STV49.2 The returning officer is to make:

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule STV41.1, available on request.

#### **50. Declaration of result for uncontested elections**

50.1 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 they have declared elected to the Chair of the corporation, and
- (c) give public notice of the name of each candidate who they have declared elected.

### **Part 8 Disposal of documents**

#### **51. Sealing up of documents relating to the poll**

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

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

(e) the complete electronic copies of records referred to in rule 25 held in a device suitable for the purpose of storage.

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

- (a) the disqualified documents, with the list of disqualified documents inside it,
- (b) the list of spoilt ballot papers,
- (c) the list of lost ballots,
- (d) the list of eligible voters, and
- (e) the complete electronic copies of records referred to in rule 25 held in a device suitable for the purpose of storage.

51.3 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.

## **52. Delivery of documents**

52.1 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 corporation.

## **53. Forwarding of documents received after close of the poll**

53.1 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 voter information is 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.

## **54. Retention and public inspection of documents**

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

54.2 With the exception of the documents listed in rule 55.1, the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

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

## **55. Application for inspection of certain documents relating to an election**

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

- (a) any rejected ballot papers, including ballot papers rejected in part,
- (b) any disqualified documents, or the list of disqualified documents,
- (c) any counted ballot papers, or
- (d) the list of eligible voters,
- (e) the complete electronic copies of records referred to in rule 25 held in a device suitable for the purpose of storage by any person without the consent of the Regulator.

55.2 A person may apply to the Regulator to inspect any of the documents listed in rule 55.1, 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.

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

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening, and the corporation must only make the documents available for inspection in accordance with those terms and conditions.

55.4 On an application to inspect any of the documents listed in rule 55.1:

- (a) in giving its consent, the regulator, and
- (b) making the documents available for inspection, the corporation, must ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –
  - (i) that their 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**

### **FPP56. Countermand or abandonment of poll on death of candidate**

FPP56.1 If at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

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

FPP56.2 Where a new election is ordered under rule FPP56.1, no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned but further candidates shall be invited for that constituency or class.

FPP56.3 Where a poll is abandoned under rule FPP56.1(a), rules FPP56.4 to FPP56.7 are to apply.

FPP56.4 The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 35 and 36, and is to make up separate sealed packets in accordance with rule 37.

FPP56.5 The returning officer is to:

- (a) count and record the number of ballot papers that have been received, and
- (b) seal up the ballot papers into packets, along with the records of the number of ballot papers.
- (c) seal up the electronic copies of records that have been received referred to in rule 25 held in a device suitable for the purpose of storage.

FPP56.6 The returning officer is to endorse on each packet a description of:

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

FPP56.7 Once the documents relating to the poll have been sealed up and endorsed pursuant to rules FPP56.4 to FPP56.6, the returning officer is to deliver them to the Chair of the corporation, and rules 54 and 55 are to apply.

### **STV56. Countermand or abandonment of poll on death of candidate**

STV56.1 If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

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

STV56.2 The ballots which have preferences recorded for the candidate who has died are to be sealed with the other counted ballots pursuant to rule 51.1(a).

## **Part 10 Election expenses and publicity**

### **57. Election expenses**

57.1 Any expenses incurred, or payments made, for the purposes of an election which to the regulator under Part 11 of these rules.

### **58. Expenses and payments by candidates**

58.1 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.

### **59. Election expenses incurred by other persons**

59.1 No person may:

- (a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or
- (b) give a candidate or their family any money or property (whether 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.

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

## **Publicity**

### **60. Publicity about election by the corporation**

60.1 The corporation may:

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

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

- (a) objective, balanced and fair,

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

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

## **61. Information about candidates for inclusion with voting information**

61.1 The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 23 of these rules.

61.2 The information must consist of:

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

## **62. Meaning of “for the purposes of an election”**

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

62.2 The provision by any individual of their own services voluntarily, on their 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**

### **63. Application to question an election**

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

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

63.3 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.

63.4 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.

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

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

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

63.8 The determination by the person or persons nominated in accordance with rule 63.7 shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency including all the candidates for the election to which the application relates).

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

## **Part 12 Miscellaneous**

### **64. Secrecy**

64.1 The following persons:

(a) the returning officer,  
(b) the returning officer's staff,  
must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to:

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

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

64.3 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.

### **65. Prohibition of disclosure of vote**

65.1 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.

### **66. Disqualification**

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

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

### **67. Delay in postal service through industrial action or unforeseen event**

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

- (a) the delivery of the documents in rule 23, 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.

UPDATED 20.1.15 (electronic voting)

## **ANNEXE 3 – FURTHER PROVISIONS**

(From paragraph 9.2)

### **Termination of Membership**

1. A Member may be expelled by a resolution approved by not less than three quarters of the full Council of Governors present and voting at a general meeting. The following procedure is to be adopted.
2. Any Member may complain to the Company Secretary that another Member has acted in a way detrimental to the interests of the Trust.
3. If a complaint is made, the Council of Governors may itself consider the complaint having taken such steps as it considers appropriate to ensure that each Member's point of view is heard and may either:
  - 3.1. dismiss the complaint and take no further action; or
  - 3.2. arrange for a resolution to expel the Member complained of to be considered at the next general meeting of the Council of Governors.
4. If a resolution to expel a Member is to be considered at a general meeting of the Council of Governors, details of the complaint must be sent to the Member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the meeting.
5. 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.
6. If the Member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.
7. 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.
8. No person who has been expelled from Membership is to be re-admitted except by a resolution carried by the votes of three quarters of the Council of Governors present and voting at a general meeting.

## ANNEXE 4 – ANNUAL MEMBERS’ MEETING

(From paragraph 10.2)

1. All Members meetings, other than annual meetings, are called special members meetings.
2. Members’ meetings are open to all members of the Trust, members of the Council of Governors and the Board of Directors, representatives of the Trust’s financial auditors, but not to members of the public. The Council of Governors may invite representatives of the media, and any experts or advisors, whose attendance they consider to be in the best interests of the Trust to attend a members’ meeting.
3. All Members meetings are to be convened by the Secretary by order of the Chair of the Council of Governors or upon a resolution of the Board of Directors.
4. The Council of Governors may decide where a members’ meeting is to be held and may also for the benefit of Members:
  - 4.1. arrange for the annual members’ meeting to be held in different venues each year;
  - 4.2. make provisions for a members meeting to be held at different venues simultaneously or at different times. In making such provision the Council of Governors shall also fix an appropriate quorum for each venue, provided that the aggregate of the quorum requirements shall not be less than the quorum set out below.
5. At the Annual Members’ Meeting the Council of Governors shall present to the Members:
  - 5.1. the annual accounts;
  - 5.2. any report of the auditor;
  - 5.3. any report of any other auditor of the Trust’s affairs;
  - 5.4. forward planning information for the next financial year;
  - 5.5. a report on steps taken to secure that (taken as a whole) the actual membership of its constituencies is representative of those eligible for such membership;
  - 5.6. the progress of the Membership Strategy;
  - 5.7. any proposed changes to the policy for the composition of the Council of Governors and of the Non-Executive Directors.
  - 5.8. the results of the election and appointment of Council of Governors Members will be announced.
6. Notice of a Members’ meeting is to be given:
  - 6.1. by notice on the Trust’s website at least 14 clear days before the date of the meeting
  - 6.2. by notice emailed to all those members for whom we hold an email address
  - 6.3. included within the Trust’s members newsletter
  - 6.4. be given to the Council of Governors and the Board of Directors, and to the auditors;
7. The notice of the member’s meeting must:
  - 7.1. state whether the meeting is an annual or special members’ meeting;
  - 7.2. give the time, date and place of the meeting; and
  - 7.3. indicate the business to be dealt with at the meeting.

8. It is the responsibility of the Council of Governors, the Company Chair of the meeting and the Secretary to ensure that at any members meeting:
  - 8.1. the issues to be decided are clearly explained;
  - 8.2. sufficient information is provided to members to enable rational discussion to take place;
  - 8.3. where appropriate, experts in relevant fields or representatives of special interest groups are invited to address the meeting.
9. The Chair of the Trust or, in their absence, the Deputy-Chair or, in their absence, the Lead Governor is to chair Council of Governor meetings.
10. Subject to this Constitution, a resolution put to the vote at a members' meeting shall, except where a poll is demanded or directed, be decided upon by a show of hands.
11. On a show of hands or on a poll, every member present is to have one vote. On a poll, votes may be given either personally or by proxy under arrangements laid down by the Council of Governors, and every member is to have one vote. In case of an equality of votes the Chair shall decide the outcome.
12. Unless a poll is demanded, the result of any vote will be declared by the Chair and recorded in the minutes. The minutes will be conclusive evidence of the result of the vote.
13. A poll may be directed by the Chair or demanded either before or immediately after a vote by show of hands by not less than one-tenth of the members present at the meeting. A poll shall be taken immediately.

## **ANNEXE 5 – ROLES AND RESPONSIBILITIES OF GOVERNORS**

(from paragraph 11.3)

1. The roles and responsibilities of the Governors are:
  - 1.1. at a general meeting, to appoint or remove the Chair and the other Non-Executive Directors;
  - 1.2. at a general meeting, to approve an appointment (by the Non-Executive Directors) of the Chief Executive;
  - 1.3. at a general meeting, to decide the remuneration and allowances, and the other terms and conditions of office, of the Non-Executive Directors;
  - 1.4. at a general meeting, to appoint or remove the Trust's auditor;
  - 1.5. at a general meeting, to be presented with the annual accounts, any report of the auditor on them and the annual report;
  - 1.6. at a general meeting, to appoint or remove any auditor appointed to review and publish a report on any other aspect of the Trust's affairs;
  - 1.7. to provide their views to the Board of Directors when the Board of Directors is preparing the document containing information about the Trust's forward planning in respect of each financial year;
  - 1.8. to respond as appropriate when consulted by the Board of Directors in accordance with this Constitution;
  - 1.9. to undertake such functions as the Board of Directors shall from time to time request;
  - 1.10. to prepare and from time to time to review the Trust's Membership Strategy, its policy for the composition of the Council of Governors and of the Non-Executive Directors.
2. A third party dealing in good faith with the Trust shall not be affected by any defect in the process by which Members of the Council of Governors are appointed or any vacancy on the Council of Governors.

## **ANNEXE 6 – COMPOSITION OF THE COUNCIL OF GOVERNORS**

(from paragraph 12.2)

1. The Council of Governors of the Trust is to comprise:
  - 1.1. up to 18 Public Governors from 9 public constituencies (2 members from each constituency) set out in Annexe 1
  - 1.2. up to six Staff Governors from 1 Staff Constituency from the following classes:
    - 1.2.1. doctors and dentists (1 member);
    - 1.2.2. Allied Health Professionals, Health Care Scientists and Pharmacists (1 member);
    - 1.2.3. Management, Administration and Clerical (1 Member);
    - 1.2.4. Ancillary Staff (1 Member);
    - 1.2.5. Nurses and Midwives (up to 2 members);
  - 1.3. Two Local Authority Governors, one to be appointed by each of: Calderdale Metropolitan Borough Council and Kirklees Metropolitan Council;
  - 1.4. Up to six Governors appointed by partnership organisations. The partnership organisations shall appoint a governor to represent their organisation on the Council of Governors. The partnership organisations are identified as:
    - Huddersfield University,
    - South West Yorkshire Partnership NHS Foundation Trust
    - Locala Community Interest Company
    - Calderdale and Huddersfield Solutions Limited
    - Calderdale Cares Partnership / West Yorkshire Health and Care Partnership
    - Kirklees Health and Care Partnership/ West Yorkshire Health and Partnership

## ANNEXE 7 – COUNCIL OF GOVERNORS – STANDING ORDERS

AS APPROVED AT COUNCIL OF GOVERNORS APRIL 2021

**A Public Benefit Corporation**

# STANDING ORDERS

## COUNCIL OF GOVERNORS

<b>Version:</b>	<p>2.0 Review and update including:</p> <ul style="list-style-type: none"> <li>- Expenses clarification</li> <li>- References to Monitor / NHS Improvement</li> <li>- Typographical amends</li> </ul> <p>2.1 Addition of partner governor May 2019</p> <p>3 April 2021 Integrated car system references added Addition of period after which governors may stand for re-election</p>
<b>Approved by:</b>	Council of Governors / Board of Directors
<b>Date approved:</b>	<p>17 January 2017</p> <p>Version 2 17 October 2019</p> <p>Version 3 22 April 2021</p>
<b>Date issued:</b>	17 October 2019
<b>Next Review date:</b>	In conjunction with the constitution but as a minimum every three years (2024)

•	<b>CONTENTS</b>	
•		•
•	<b>INTERPRETATION</b>	• 4
•		•
•	<b>SECTION A: CONDUCT OF MEETINGS</b>	
•	Admission of the public and press	• 5
•	Calling and notice of meetings	• 5
•	Quorum	• 6
•	Setting the agenda	• 6
•	Chairing of the meeting	• 7
•	Notices of motion	• 7
•	Withdrawal of motion or amendment	• 7
•	Motion to rescind a resolution	• 7
•	Motions	• 7
•	Chair's ruling	• 8
•	Voting	• 8
•	Minutes	• 8
•		•
•	<b>SECTION B: COMMITTEES</b>	
•	Appointment of committees	• 9
•	Confidentiality	• 9
•	Appointment of Chair and Non-Executive Directors	• 10
•		•
•	<b>SECTION C: REGISTER AND DISCLOSURE OF INTERESTS</b>	
•	Register and disclosure of interests	• 11
•		•
•	<b>SECTION D: TERMINATION OF OFFICE &amp; REMOVAL OF COUNCIL MEMBER</b>	
•	Termination of office	• 13
•	Removal of Council Member	• 13
•		•
•	<b>SECTION E: REMUNERATION AND PAYMENT OF EXPENSES</b>	
•	Remuneration	• 15
•	Payment of expenses	• 15
•		•
•	<b>SECTION F: STANDARDS OF CONDUCT OF COUNCIL MEMBERS</b>	
•	Policy	• 16
•	Interests of Council Members in contracts	• 16
•		•
•	<b>SECTION G: MISCELLANEOUS PROVISIONS</b>	
•	Suspension of Standing Orders	• 17
•	Variation and amendment of Standing Orders	• 17
•	Review of Standing Orders	• 17
•		•

## INTERPRETATION

In these Standing Orders, the provisions relating to interpretation in the Constitution shall apply and the words and expressions defined in the Constitution shall have the same meaning and, in addition:

**“The Act”** shall mean the National Health Service Act 2012.

**“Terms of Authorisation”** shall mean the Authorisation of the Trust issued by Monitor with any amendments for the time being in force.

**“Corporation”** means Calderdale & Huddersfield NHS Foundation Trust, which is a public benefit corporation.

**“Board of Directors”** shall mean the Board of Directors as constituted in accordance with the Trust’s constitution.

**“Chair”** means the person appointed to be Chair of the Trust under the terms of the constitution.

**“Chief Executive”** shall mean the chief officer of the Trust.

**“Constitution”** shall mean the constitution attached to the Authorisation with any variations from time to time approved by Monitor.

**“Council of Governors”** shall mean the Council of Members as constituted in accordance with the corporation’s constitution.

**“Council of Governors”** shall mean those persons elected or appointed to sit on the Trust’s Council of Governors.

**“Council Member”** shall mean a governor member of the Council of Governors as defined in section 12 of the constitution.

**“Director”** shall mean a member of the Board of Directors as defined in section 13 of the constitution.

**“Lead Governor”** is the Public Council of Governor selected by the Council of Governors to act as a lead for the Council of Governors and to chair meetings in those circumstances where both the Chair and Deputy Chair have a conflict.

**Integrated Care System (ICS)** - is the West Yorkshire and Harrogate Health and Care Partnership.

**“Monitor”** is the previous name of the Independent Regulator for NHS Foundation Trusts. This changed to NHS Improvement on 1 April 2016.

**“Motion”** means a formal proposition to be discussed and voted on during the course of a meeting.

**“NHS Improvement”** is the Independent Regulator for NHS Foundation Trusts which came into being on 1 April 2016 formed from Monitor and the NHS Trust Development Authority.

**“Officer”** means an employee of the Trust.

**“Deputy Chair”** means the Deputy Chair of the Trust pursuant to the terms of the constitution who will preside at meetings of the Council of Governors in the Chair’s absence.

**“Secretary”** means the Board Secretary of the Trust or any other person appointed to perform the duties of the Secretary to the Board of Directors.



## SECTION A: CONDUCT OF MEETINGS

### 1. Admission of the Public and the Press

- 1.1. The public and representatives of the press shall be afforded facilities to attend all formal meetings of the Council of Governors but shall be required to withdraw upon the Council of Governors resolving as follows:

*“That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest in accordance with 12.24 of the Constitution.”*

- 1.2. The Chair (or Deputy Chair) shall give such directions as he/she thinks fit in regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Council of Governors’ business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on the grounds of the confidential nature of the business to be transacted, the Council of Governors may resolve as follows:

*“That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Council of Governors to complete business without the presence of the public in accordance with 12.24 of the Trust’s Constitution.”*

- 1.3. Nothing in these Standing Orders shall require the Council of Governors to allow members of the public or representatives of the press to record proceedings in any manner whatsoever, other than in writing, or to make any oral report of proceedings as they take place without prior agreement of the Council of Governors.

### 2. Calling and notice of meetings

- 2.1. The Council of Governors is to meet at least three times in each financial year. Meetings shall be determined at the first meeting of the Council of Governors or at such other times as the Council of Governors may determine and at such places as they may from time to time appoint. Meetings may be held virtually or in person.
- 2.2. Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least **ten working** days written notice of the date and place of every meeting of the Council of Governors to all Council Members. Notice will also be published on the Trust’s website.
- 2.3. Meetings of the Council of Governors may be called by the Secretary, by the Chair, by the Board of Directors or by eight Council members (including two appointed Council Members) who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Council Members as soon as possible after receipt of such a request giving at least **ten working days’** notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chair or four Council Members, whichever is the case, shall call such a meeting.
- 2.4. In the case of a meeting called by Council Members in default of the Chair, the notice shall be signed by those Council Members and no business shall be transacted at the meeting other than that specified on the notice.
- 2.5. All meetings of the Council of Governors are to be general meetings open to members of the public unless the Council of Governors decides otherwise in relation to all or part of the meeting for reasons of commercial confidentiality or on other proper grounds. The

Chair may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting

- 2.6. The Council of Governors may invite the Chief Executive or through the Chief Executive any other member or members of the Board of Directors, or a representative of the Trust's auditors or other advisors to attend a meeting of the Council of Governors. The Chief Executive and any Executive of the Trust nominated by the Chief Executive shall have the right to attend any meeting of the Council of Governors provided that they shall not be present for any discussion of their individual relationship with the Trust
- 2.7. The Council of Governors may agree that its members can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.
- 2.8. All decisions taken in good faith at a meeting of the Council of Governors, or of any of its committees, shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or the appointment of the Council Members attending the meeting.
- 2.9. Following notice of the meeting (as set out in SO 2.3) an agenda for the meeting, specifying the business proposed to be transacted at it shall be sent to every Council Member, , so as to be available to him/her at least **five working** days before the meeting.
- 2.10. The agendas will include all supporting papers available at the time of posting. Further supporting papers will be received no later than **three (3)** working days before the meeting.
- 2.11. Lack of service of the notice on any one person above shall not affect the validity of the meeting, but failure to serve such a notice on more than six Council Members 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. Quorum

- 3.1. Ten Council of Governors members (including not less than six Public Council Members, not less than two Staff Council Members and not less than two Appointed Council Members – in line with the Constitution) present in person or by proxy under arrangements approved by the Council of Governors shall form a quorum

### 4. Setting the agenda

- 4.1. A Council Member desiring a matter to be included on an agenda shall make the request in writing to the Chair at least **ten working** days before the meeting. Requests made less than fourteen clear days before a meeting may be included on the agenda at the discretion of the Chair or the Secretary.

### 5. Chairing of meeting

- 5.1. The Chair of the Trust or, in his/her absence, the Deputy Chair will chair meetings of the Council of Governors.
- 5.2. The Lead Governor will be appointed from the Public Membership at a general meeting. He/she will act as Chair of the meeting should the Chair and the Deputy Chair be in conflict. The Deputy Chair will hold the casting vote when he/she is acting as Chair.

## 6. Notices of motion

- 6.1. A Council Member desiring to move or amend a motion shall send a written notice thereof at least **ten working** 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 preceding provisions.

## 7. Withdrawal of motion or amendments

- 7.1. 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.

## 8. Motion to rescind a resolution

•

- 8.1. Notice of motion to amend or rescind any resolution (or general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the Council Members who give it and also the signature of four other Council Members, of whom at least two shall be Public Council Members. When any such motion has been disposed of by the Trust, it shall not be competent for any Council Member other than the Chair to propose a motion to the same effect within six months, although the Chair may do so if he/she considers it appropriate.

## 9. Motions

- 9.1. The mover of a motion shall have the right of reply at the close of any discussions on the motion or any amendment thereto.
- 9.2. When a motion is under discussion or immediately prior to discussion it shall be open to a Council Member to move:
- a) An amendment to the motion.
  - b) The adjournment of the discussion or the meeting.
  - c) That the meeting proceed to the next business. (\*)
  - d) The appointment of an ad hoc committee to deal with a specific item of business.
  - e) That the motion be now put. (\*)
1. [\*In the case of sub-paragraphs denoted by (\*) above to ensure objectivity motions may only be put by a Council Member who has not previously taken part in the debate.]
- 9.3. 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.

## 10. Chair's ruling

- 10.1. The decision of the Chair of the meeting on the question of order, relevancy and regularity shall be final.

## **11. Voting**

- 11.1. Questions arising at a meeting of the Council of Governors requiring a formal decision shall be decided by a majority of votes. In case of an equality of votes the Chair shall decide the outcome. No resolution of the Council of Governors shall be passed if it is unanimously opposed by all of the Public Council Members.
- 11.2. All questions put to the vote shall, at the discretion of the Chair, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Council Members present so request, or the Secretary deems it advisable or necessary.
- 11.3. If at least one third of the Council Members present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Council Member present voted or abstained.
- 11.4. If a Council member so requests his vote shall be recorded by name upon any vote (other than by paper ballot).
- 11.5. In no circumstances may an absent Council Member vote by proxy. Absence is defined as being absent at the time of the vote.

## **12. Minutes**

- 12.1. The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting
- 12.2. No discussion shall take place upon the minutes, except upon their accuracy, or where the Chair considers discussion appropriate. Any amendments to the minutes shall be agreed and recorded at the next meeting.
- 12.3. Minutes shall be circulated in accordance with Council Members' wishes. Where providing a record of a public meeting the minutes shall be made available to the public via the Trust Website (required by the Code of Practice of Openness in the NHS).
- 12.4. The names of the Council Members' present at the meeting and those who gave apologies for each meeting shall be recorded in the minutes.
- 12.5. Council of Governor Members' must make every effort to attend meetings of the Council of Governors where appropriate and practicable. Where it's not possible for a Council Member to attend apologies should be sent to the Corporate Governance Manager no later than three working days prior to the meeting.

## **SECTION B: COMMITTEES**

### **13. Appointment of Committees**

- 13.1. Subject to paragraph 40 below and such directions as may be given by NHS Improvement, the Council of Governors may and, if directed to do so, shall appoint committees of the Council of Governors, consisting wholly or partly of Council Members. In all cases, each committee shall have a majority of Public Council Members.
- 13.2. A committee appointed under SO 13.1 may, subject to such directions as may be given by NHS Improvement or the Council of Governors, appoint sub-committees consisting wholly or partly of members of the committee.
- 13.3. These Standing Orders, as far as it is applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Council of Governors.
- 13.4. Each such committee or sub-committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Council of Governors), as the Council of Governors shall decide. Such terms of reference shall have effect as if incorporated into these Standing Orders.
- 13.5. Committees may not delegate their powers to a sub-committee unless expressly authorised by the Council of Governors.
- 13.6. The Council of Governors shall approve the appointments to each of the committees which it has formally constituted. Where the Council of Governors determines that persons who are neither Council Members, nor directors or officers, shall be appointed to a committee, the terms of such an appointment shall be determined by the Council of Governors subject to the payment of travelling and other allowances being in accordance with such sum as may be determined by the Board of Directors or NHS Improvement (in line with SO 20).
- 13.7. Where the Council of Governors is required to appoint persons to a committee or to undertake statutory functions as required by NHS Improvement, and where such appointments are to operate independently of the Council of Governors or the Board of Directors, such appointment shall be made in accordance with the any regulations laid down by the Chief Executive or his nominated officer or any directions or guidance issued by NHS Improvement from time to time.

### **14. Confidentiality**

- 14.1. 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 Council of Governors or shall otherwise have concluded on that matter.
- 14.2. A Council Member or a member of a committee shall not disclose any matter reported to the Council of Governors or otherwise dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Council of Governors or committee shall resolve that it is confidential.
- 14.3. In relation to patient confidentiality, the provisions at paragraphs 42 and 43 above for disclosure of information by Council Members or members of committees established by the Council of Governors shall not apply, and such information shall not be disclosed under any circumstances.

## **15. Appointment of the Chair, Deputy Chair and Non-Executive Directors**

- 15.1. The Council of Governors shall appoint a Chair of the Trust. The Board of Directors will appoint one Non-Executive Director to be Deputy Chair of the Trust. This individual may, through agreement with the Chair, also take on the role of SINED (Senior Independent Non-Executive Director). The Council of Governors shall ratify the appointment of the Vice Chair at a general meeting.
- 15.2. Non-Executive Directors are to be appointed by a sub-committee (not exceeding four persons) of the Council of Governors using the procedures set out under paragraph 13 of the constitution.

## SECTION C: REGISTER AND DISCLOSURE OF INTERESTS

### 16. Register and disclosure of interests

- 16.1. If Council Members have any doubt about the relevance or materiality of an interest, this should be discussed with the Chair or the Secretary.
- 16.2. Any Council Member who has a material interest in a matter as defined below and in the constitution shall declare such an interest to the Council of Governors and it shall be recorded in a register of interests and the Council Member in question:
- a) Shall not be present except with the permission of the Council of Governors in any discussion of the matter, and
  - b) Shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 16.3. Any Council Member who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Council Members.
- 16.4. At the time the interests are declared, they should be recorded in the minutes of the Council of Governors. Any changes in interests should be officially declared at the next meeting as appropriate following the change occurring.
- 16.5. It is the obligation of a Council Member to inform the Secretary in writing within seven days of becoming aware of the existence of a relevant or material interest. The Secretary will amend the register upon receipt within three working days.
- 16.6. The details of Council Members' interests recorded in the register will be kept up to date by the Secretary, and reviewed at each meeting of the Council of Governors.
- 16.7. Subject to the requirements of the Public Benefit Corporation (Register of Members) Regulations 2006 and the Data Protection Act 1998, the register will be available for inspection by the public free of charge and will be published on the Trust's website.
- 16.8. Copies or extracts of the register must be provided to members of the Trust free of charge and within a reasonable time period of the request. A reasonable charge may be imposed on non-members for copies or extracts of the register.
- 16.9. A material interest in a matter is any interest (save for the exceptions referred to below) held by a Council Member, or their spouse or partner, in any firm or business which, in connection with the matter, is trading with the trust, or is likely to be considered as a potential trading partner with the trust. The exceptions which shall not be treated as material interests are as follows:
- a) Shares not exceeding 2% of the total shares in issue held in any company whose shares are listed on any public exchange;
  - b) An employment contract held by staff Council Members;
  - c) A contract with their Clinical Commissioning Group (CCG) / Integrated Care System (ICS) held by a CCG / ICS governor r;
  - d) An employment contract with a Local Authority held by a Local Authority Council Member;

- e) An employment contract with any organization listed at paragraph 12.3.5 of the constitution.
- 16.10. If, in relation to 47, the Chair has a conflict of interest, the Deputy Chair will exercise the casting vote. If the Deputy Chair has a conflict of interest, the Deputy Chair will preside and exercise the casting vote, the nomination to be approved by a majority vote of those present at the meeting.
- 16.11. An elected Council Member may not vote at a meeting of the Council of Governors unless, before attending the meeting, they have made a declaration in the Council of Governors Charter as specified by the Council of Governors as to the basis upon which they are entitled to vote as a member. The Constitution provides guidance. An elected Council Member shall be deemed to have confirmed the declaration upon attending any subsequent meeting of the Council of Governors, and every agenda for meetings of the Council of Governors will draw this to the attention of elected Council members.
- 16.12. Members of the Council of Governors must meet the requirements of the Fit and Proper persons test.

## **SECTION D: TERMINATION OF OFFICE AND REMOVAL OF COUNCIL MEMBER**

### **17. Termination of office**

17.1. A person holding office as a Council member shall immediately cease to do so if:

- a) They resign by notice in writing to the Secretary;
- b) They fail to attend two meetings in any Financial Year, unless the other Council Members are satisfied that the absences were due to reasonable causes, and they will be able to start attending meetings of the trust again within such a period as they consider reasonable;
- c) In the case of an elected Council Member, they cease to be a Member of the constituency by whom they were elected;
- d) In the case of an appointed Council Member, the Appointing Organisation terminates the appointment;
- e) They have failed to undertake any training which the Council of Governors requires all Council Members to undertake;
- f) They have failed to sign and deliver to the Secretary a statement in the form required by the Council of Governors confirming acceptance of the Code of Conduct for Council Members/Council of Governors Charter;
- g) They refuse to sign a declaration in the form specified by the Council of Governors that they are a Member of a specific public constituency and are not prevented from being a Member of the Council of Governors. This does not apply to Staff Members;
- h) They are removed from the Council of Governors under the following provisions.

### **18. Removal of Council Member**

18.1. A Council Member may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Council Members present and voting at a general meeting of the Council of Governors on the grounds that:

- a) They have committed a serious breach of the Code of Conduct; or
- b) They have acted in a manner detrimental to the interests of the Trust; and
- c) The Council of Governors considers that it is not in the best interests of the Trust for them to continue as a Council Member.

18.2. Where a person has been elected or appointed to be a Council Member and he/she becomes disqualified for appointment, under SO 17.1 above, he/she shall notify the Secretary in writing of such disqualification.

18.3. If it comes to the notice of the Secretary that a person elected or appointed to be a Council Member may be disqualified, under SO 17.1 above, from holding that office and the Secretary has not received a notice, under paragraph 59, from that person, the Secretary will make such inquiries as he/she thinks fit and, if satisfied that the person may be so disqualified, the Secretary will advise the Chair so that the Chair can make a recommendation for disqualification to the Council of Governors. The recommendation will either be made to a general meeting or to a meeting called specifically for the purpose.

- 18.4. The Secretary shall give notice in writing to the person concerned that the Trust proposes to declare the person disqualified as a Council Member. In this notice, the Secretary shall specify the grounds on which it appears to him/her that the person is disqualified and give that person a period of fourteen days in which to make representations, orally or in writing, on the proposed disqualification.
- 18.5. The Chair's recommendations and any representations by the Council Member concerned shall be made to the Council of Governors. If no representations are received within the specified time, or the Council of Governors upholds the proposal to disqualify, the Secretary shall immediately declare that the person in question is disqualified and notify him/her in writing to that effect. On such declaration the person's tenure of office shall be terminated and he/she shall cease to act as a Council Member.
- 18.6. A Council Member whose tenure of office is terminated under paragraph 18 shall not be eligible to stand for re-election for a period of 2 years from the date of removal from office or the date upon which any appeal against removal from office is disposed of, whichever is the later except by resolution carried by a majority of the Council of Governors present and voting at a general meeting. Any re-election would take into account time served as a Governor so that a maximum term would not exceed 6 years.

## **SECTION E: REMUNERATION AND PAYMENT OF EXPENSES**

### **19. Remuneration**

19.1. Council Members are not to receive remuneration.

### **20. Payment of expenses**

20.1. The return cost of travel from the Council Member'

a) The actual bus or rail fare using the most direct route.

b) Travel by private car or taxi at the Trust's usual pence per mile rate (currently 28p per mile) using the most direct route.

c) Necessary parking charges.

20.2. Governors claiming expenses may be required to provide tickets, receipts or other proof of expenditure alongside a completed and signed expenses form.

20.3. Expenses will be authorised through the Secretary's office and details of all expenses claimed by Governors will be recorded and published in the Trust's Annual Report and Accounts.

## **SECTION F: STANDARDS OF CONDUCT OF COUNCIL MEMBERS**

### **21. Policy**

- 21.1. In relation to their conduct as a member of the Council of Governors, each Council Member must comply with the same standards of business conduct as for NHS staff. In particular, the Trust must be impartial and honest in the conduct of its business and its office holders and staff must remain beyond suspicion. Council Members are expected to be impartial and honest in the conduct of official business.

### **22. Interest of Council Members in contracts**

- 22.1. If it comes to the knowledge of a Council Member that a contract in which he/she has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Trust, he/she shall, at once, give notice in writing to the Secretary of the fact that he/she has such an interest.
- 22.2. A Council Member shall not solicit for any person any appointment in the Trust.
- 22.3. Informal discussions outside appointment committees, whether solicited or unsolicited, should be declared to the committee.

## **SECTION G: MISCELLANEOUS PROVISIONS**

### **23. Suspension of Standing Orders**

23.1. Standing Orders may be suspended at any general meeting provided that:

- a) at least two-thirds of the Council of Governors are present, including at least six elected Council Members and one appointed Council Member, and
- b) the Secretary does not advise against it, and
- c) a majority of those present vote in favour.

23.2. But Standing Orders cannot be suspended if to do so would contravene any statutory provision, or the Trust's Terms of Authorisation, or the Trust's constitution.

23.3. A decision to suspend Standing Orders shall be recorded in the minutes of the meeting and any matters discussed during the suspension of Standing Orders shall be recorded separately and made available to all members of the Council of Governors.

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

### **24. Variation and amendment of Standing Orders**

24.1. Standing Orders may only be varied or amended if:

- a) the proposed variation does not contravene any statutory provision, or the Trust's Terms of Authorisation, or the Trust's constitution;
- b) unless proposed by the Chair or the Chief Executive or the Secretary, a notice of motion under paragraph 19 has been given;
- c) at least two-thirds of the Council of Governors are present, including at least six elected Council Members and one appointed Council Member, and at least half of the Council Members present vote in favour of amendment.

### **25. Review of Standing Orders**

25.1. Standing Orders shall be reviewed bi-annually by the Council of Governors. The requirement for review shall extend to all and any documents having effect as if incorporated in Standing Orders.

## ANNEXE 8 – BOARD OF DIRECTORS – STANDING ORDERS

**UNIQUE IDENTIFIER NO: G-1A-2010**

**Review Date: March 2025**

**Review Lead: Company Secretary**

# STANDING ORDERS

## BOARD OF DIRECTORS

Directorate responsible for policy:	Chief Executive's Office
Version:	<p>V6 - scheduled review, update for legislation and guidance, mandatory and non mandatory Committees and standards of public life</p> <p>Section 1.2 Composition of the Board of Directors increase to up to 7 Non-Executive Directors and up to 7 Executive Directors.</p> <p>Section 1.1 addition of roles and responsibilities of Board of Directors</p> <p>Section 5.3 addition of section on Compliance with Fit and Proper Persons Regulations</p> <p>Section</p>
Policy author:	Company Secretary
Responsible Committee:	Audit and Risk Committee
Date written:	April 2017
Date approved:	2 March 2023
Date issued:	6 March 2023
Date of latest review:	January 2023
Next review date:	March 2025 - or earlier if required by regulation or statutory changes

## TRUST STANDING ORDERS

<b>Standing Orders for the regulation of the proceedings of Calderdale and Huddersfield NHS Foundation Trust</b>	
<b>CONTENTS</b>	<b>2</b>
<b>FOREWORD</b>	<b>4</b>
<b>DEFINITIONS</b>	<b>4</b>
<b>INTRODUCTION</b>	<b>7</b>
Statutory and Regulatory Framework	7
Collaboration of services across West Yorkshire and the Integrated Care System	
<b>PART 1: THE TRUST AND BOARD OF DIRECTORS</b>	
<b>CORPORATE ROLE OF THE TRUST</b>	<b>9</b>
Name and Business of the Trust	
<b>COMPOSITION OF THE BOARD OF DIRECTORS</b>	
Appointment and removal of the Chair and Non-Executive Directors	10
Terms of Office of the Chair and Non-Executive Directors	10
Appointment of Deputy Chair	11
Powers of Deputy Chair	11
Appointment of the Senior Independent Director	11
Appointment and Removal of Directors	11
Appointment of Deputy Chief Executive	11
Joint Directors	11
Role of Directors	12
Executive Directors	12
Chief Executive	12
Director of Finance	12
Non-Executive Directors	12
Chair	12
Secretary	13
<b>PART 2: MEETINGS OF THE BOARD OF DIRECTORS</b>	<b>14</b>
Admission of Public and the Press	14
Observers at Board meetings	14
Public questions	14
Calling Meetings	14
Notice of Meetings	15
Chair of the Meeting	15
Agenda and Supporting Papers	15
Annual Members Meeting	15
Notices of Motion	16
Emergency Motion	16
Withdrawal of Motion or Amendments	16

Motion to Rescind a Resolution	16
Motions	16
Chair's Ruling	17
Voting	17
Minutes	17
Joint Directors	18
Suspension of Standing Orders	18
Variation and Amendment of Standing Orders	18
Record of Attendance	18
Quorum	19
<b>PART 3: ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION AND COMMITTEES</b>	<b>20</b>
Urgent Decisions	20
Delegation to Committees	20
Delegation to Officers	20
Schedule of Decisions reserved to Trust Board	20
Overriding Standing Orders	21
Scheme of Delegated Authorities	21
Appointment of Committees	21
Joint Committees	22
Applicability of Standing Orders and Standing Financial instructions to Committees	22
Terms of Reference	22
Delegation of Powers by internal Committees to sub-Committees	22
Approval of Appointments to Committees	23
Mandatory Committees	24
Non Mandatory Committees	25
Confidentiality	25
Election of Chair of Committees	25
Special Meetings of Committees	
<b>PART 4: DUTIES AND OBLIGATIONS ON BOARD MEMBERS, DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS</b>	<b>25</b>
Declaration of Interest	25
Register of Interests	27
Compliance with Fit and Proper Persons Regulations	27
Exclusion of the Chair and Director in Proceedings on account of Pecuniary Interest	28
Standards of Business Conduct Policy	29
Standards of Public Life	30
Interest of Officers in Contracts	30
Canvassing of, and Recommendations by, Directors in Relation to Appointments	30
Relatives of Directors or Officers	
<b>PART 5: CUSTODY OF SEAL AND SEALING OF DOCUMENTS</b>	<b>32</b>
Custody of Seal	32
Sealing of Documents	32
Register of Sealing	32
Signature of Documents	
<b>PART 6: MISCELLANEOUS</b>	<b>33</b>
Standing Orders to be given to Directors and Officers	

<b>Documents having the Standing of Standing Orders</b>	<b>33</b>
<b>Review of Standing Orders</b>	<b>33</b>
<b>Non-availability of Chair / Deputy Chair / Chief Executive / Director of Finance</b>	<b>33</b>
	<b>33</b>

## FOREWORD to Standing Orders

Within their terms of authorisation issued by the Regulator NHS Foundation Trusts are required to demonstrate appropriate arrangements to provide comprehensive governance arrangements in accordance with the need to agree Standing Orders (SOs) and schedules of Reservations of Powers to the Trust and Scheme of Delegation in accordance with their constitutions, their Terms of Authorisation and the requirements of the National Health Service Act 2006 (“the 2006 Act”) and 2012 Act

These Standing Orders, together with the documents below which form part of these “extended” Standing Orders, are extremely important. They provide a regulatory and governance framework for high standards of personal conduct and corporate conduct of the Trust and support public service values of accountability, probity and openness.

The additional documents which form part of these “extended” Standing Orders are:

- Standing Financial Instructions, which detail the financial responsibilities, policies and procedures to be maintained by the Trust
- Schedule of Decisions reserved to the Board of the Trust Scheme of Delegated Authorities, which sets out delegated levels of authority and responsibility

These documents provide a comprehensive business framework and set out the ground rules within which Board directors and staff must operate in conducting the business of the Trust. Observance of them is mandatory. They fulfil the dual role of protecting the Trust’s interests and protecting staff from any possible accusation that they have acted less than properly.

All Directors and all members of staff should be aware of the existence of these documents, understand when they should be referred to and, where necessary and appropriate to their role, be familiar with the detailed provisions.

Failure to comply with standing orders is a disciplinary matter which could result in dismissal.

## DEFINITIONS

These Standing Orders are subject to continuous review (and formally reviewed and approved by the Audit and Risk Committee and Board of Directors every 2 years) to ensure that they reflect the obligations to which the Foundation Trust is subject under the Health and Social Care (Community Health and Standards) Act 2003, National Health Service Act,

2006 (the 2006 Act) and the Health and Social Care Act, 2012,(the 2012 Act) the Terms of Authorisation and the provisions of its Constitution.

For the avoidance of doubt nothing contained within these Standing Orders shall be construed in contravention of the Terms of Authorisation and in the event that there is such a contravention, the Terms of Authorisation, the 2006 Act, 2012 Act, the Health and Care Act 2022 and the Constitution shall take precedence.

Whilst the nature of these Standing Orders is that they are subject to variation, no such variation shall contravene the Terms of Authorisation, the 2006 Act and the Constitution.

Save as permitted by law, at any meeting the Chair of the Trust shall be the final authority on the interpretation of Standing Orders. In this the Chair should be advised by the Chief Executive, guided by the Company Secretary, and in the case of Standing Financial Instructions, the Director of Finance.

Any expression to which a meaning is given in the 2006 Act, 2012 Act or 2022 Act in the Regulations or Orders made under the Act shall have the same meaning in this interpretation and in addition:

<b>Accounting Officer</b>	means the NHS Officer responsible and accountable for funds entrusted to the Trust. He/she shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
<b>Associate Non-Executive Director</b>	means a development role for potential Non-Executive Directors who is not an Officer of the Trust with no voting rights and who is appointed by the Council of Governors.
<b>Board of Directors</b>	<b>The Board of Directors as constituted in accordance with the Constitution.</b>
<b>Budget</b>	A resource, expressed in financial terms, proposed by the Board and authorised by the Independent Regulator for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
<b>Chair (of the Board or Trust)</b>	The person appointed in accordance with schedule 7 of the 2006 Act and under the terms of the Constitution to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression “the Chair of the Trust” shall be deemed to include the Deputy Chair of the Trust if the Chair is absent from the meeting or is otherwise unavailable or is unable to act as Chair due to a conflict of interest.
<b>Chief Executive</b>	<b>The chief officer of the Trust</b>
<b>Code of Governance</b>	<b>The Code of Governance for NHS provider trusts in its latest form as published at <a href="http://www.england.nhs.uk">www.england.nhs.uk</a></b>
<b>Committee</b>	A Committee created and appointed by the Board of Directors functioning as

	an internal Committee.
<b>Committee members</b>	Persons formally appointed by the Board of Directors to sit on or to chair specific Committees.
<b>Committee in Common</b>	A collective group or representation from organisations (i.e. the acute provider Trusts in West Yorkshire and Harrogate District), to perform a particular function or duty with the aim of promoting alignment between the organisations yet reserving to themselves their own decisions.
<b>Company Secretary</b>	<b>A person appointed to act as Trust Secretary or Company Secretary for the purposes of the Code of Governance, to provide advice on corporate governance issues to the Board and Chair and monitor the Trust's compliance with the law, Standing Orders and regulatory guidance</b>
<b>Deputy Chair</b>	The non-executive director appointed by the Trust to take on the Chair's duties if the Chair is absent for any reason or is unable to act due to a conflict of interest.
<b>Director</b>	A non-voting member of the Board who is an Officer of the Trust
<b>Director of Finance</b>	<b>The chief finance officer of the Trust.</b>
<b>Elected governor member</b>	Those governors Members elected by the public constituency and the staff constituency.
<b>Executive Director</b>	A voting member of the Board who is an Officer of the Trust
<b>Funds held on Trust (Charitable Funds)</b>	Those funds that the Trust as Corporate Trustee holds at the date of authorisation or receives on distribution by statutory instrument or chooses subsequently to accept. Such funds will be charitable.
<b>Member</b>	A member of the Trust Board unless otherwise stated.
<b>Memorandum of Understanding (MoU)</b>	A formal agreement between two or more parties. Companies and organisations can use MOUs to establish official partnerships. MOUs are not legally binding but they carry a degree of seriousness and mutual respect.
<b>Motion</b>	A formal proposition to be discussed and voted on during the course of a Trust Board or Committee meeting.
<b>NHS England</b>	Is responsible for the oversight of NHS Trusts
<b>Non-Executive Director</b>	A voting member of the Board who is not an Officer of the Trust
<b>Nominated officer</b>	An Officer charged with the responsibility for discharging specific tasks within the Constitution and the SOs and SFIs.
<b>Officer</b>	An employee of the Trust.
<b>Schedule of Decisions reserved to the Board</b>	Document setting out those powers which only the Board can exercise
<b>Scheme of Delegation</b>	Document setting out the detailed delegated levels of authority and responsibility.
<b>SFIs</b>	Standing Financial Instructions.

<b>SINED</b>	Senior Independent Non-Executive Director, the Non-Executive Director appointed to support the Chair in leading the Board of Directors and Council of Governors
<b>SOs</b>	Standing Orders.
<b>Trust</b>	Calderdale and Huddersfield NHS Foundation Trust.
<b>Working Day</b>	Means any day, other than a Saturday, Sunday or legal holiday
<b>WYAAT</b>	The West Yorkshire Association of Acute Trusts

## INTRODUCTION

### Statutory and Regulatory Framework

- I. Calderdale and Huddersfield NHS Foundation Trust (the Trust) is a public benefit corporation which was established in 2006 under the National Health Service Act 2006 (as amended) (“the 2006 Act”) and is governed by Acts of Parliament.
- II. The principal place of business of the Trust is Trust Headquarters, Acre Mill Outpatients, Huddersfield Royal Infirmary, Acre Street, Lindley, Huddersfield, HD3 3EB
- III. The statutory functions conferred on the Trust are set out by Acts of Parliament, mainly the National Health Service Act 2006 and subsequent versions (i.e. Health and Social Care Act 2012 and the Health and Care Act 2022.) The functions of the Trust are conferred by this legislation. The Trust also has a constitution (“the Constitution”) as required under the 2006 Act, which includes further provisions consistent with Schedule 7 in support of the governance arrangements within the Trust. It should be noted that the Trust also has in place Standing Orders (SOs) which deal with the Council of Governors which may need to be referred to.
- IV. The purpose of the Trust (as required by the 2006 Act) is to serve the community by the provision of goods and services for purposes related to the provision of health care in accordance with its statutory duties and the Terms of the Independent Regulator’s Authorisation (the “Terms of Authorisation”). The Trust is to have all the powers of an NHS Foundation Trust as set out in the 2006 Act, subject to the Terms of Authorisation.
- V. As a statutory body, the Trust has specified powers to contract in its own name and act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health.
- VI. The Trust also has statutory powers under Section 28A of the NHS Act 1977 as amended by the 2006 Act to fund projects jointly planned with local authorities, voluntary organisations and other bodies.
- VII. The Trust will be bound by such other statutes and legal provisions which govern the conduct of its affairs. In addition to the statutory requirements NHS England will issue further requirements and guidance. Many of these are contained within the 2006 Act, 2012 Act and 2022 Act and on NHS England’s website. Information is accessible locally via the Corporate Governance Manager.
- VIII. Under its regulatory framework the Trust must adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions as an integral part of Standing Orders setting out the responsibilities of individuals.
- IX. The Code of Governance and the Trust Constitution, together with the NHS Provider Licence (and the NHS Foundation Trust Conditions), require that the Trust draws up a schedule of decisions reserved to the Board and publicises which types of decisions are to be taken by Board and by the Council, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to Committees of the Board and individual Directors.

- X. The Code of Governance for NHS provider Trusts and the Trust Constitution also requires the establishment of an Audit Committee and a Remuneration Committee with formally agreed terms of reference. The Constitution requires a register of possible conflicts of interest of members of both the Board of Directors and the Council of Governors and how those possible conflicts are addressed.
- XI. The Code of Governance sets out arrangements for public access to information on the NHS.
- XII. Trust Boards are encouraged to operate an integrated governance framework to ensure that decision-making is informed by intelligent information covering the full range of corporate, financial, clinical, information and research governance. The Trust Board uses its Committee structures to take a holistic view of the Trust and its capacity to meet its legal and statutory requirements and clinical, quality and financial objectives.

### **Collaboration of services across West Yorkshire and the Integrated Care System**

Since the introduction of statutory Integrated Care Boards in July 2022 all NHS Trusts providing acute hospital services have been mandated to be part of a provider collaborative. The West Yorkshire Association of Acute Trusts, part of West Yorkshire Health and Care Partnership, is the acute sector collaborative, which formalises previous voluntary partnership working that was in place across the region to impact on the delivery of efficient and sustainable healthcare services for patients across a footprint for the population of West Yorkshire and Harrogate District

Therefore the following Trusts:

- Airedale NHS Foundation Trust
- Bradford Teaching Hospitals NHS Foundation Trust
- Calderdale and Huddersfield NHS Foundation Trust
- Harrogate and District NHS Foundation Trust
- Leeds Teaching Hospitals NHS Trust
- Mid Yorkshire Hospitals NHS Trust

will collaborate to oversee a comprehensive system-wide programme to deliver the objective of acute provider transformation. Collectively they will share obligations agreed by all Parties, set out in a Memorandum of Understanding (MOU) and hold each other to account via a Committee in Common, with all Parties agreeing to its Terms of Reference.

The Trust will also work with local Integrated Care Boards and system partners, having regard to the triple aim of better health for everyone, better care for all and efficient use of NHS resources.

## **PART 1**

### **THE TRUST AND BOARD OF DIRECTORS**

#### **CORPORATE ROLE OF THE TRUST**

##### **1. Name and business of the Trust**

- 1.1** All business shall be conducted in the name of Calderdale and Huddersfield NHS Foundation Trust ( "the Trust").

The roles and responsibilities of the Board of Directors to be carried out in accordance with the Constitution include:

- 1.1.1** to ensure compliance with the Constitution, mandatory obligations issued by NHS England and relevant statutory requirements;
- 1.1.2** to establish a set of values and standards of conduct which are consistent with the Nolan Principles governing standards in public life;
- 1.1.3** to ensure compliance with the Code of Governance for NHS provider trusts issued by NHS England and report on the Trust's governance arrangements annually;
- 1.1.4** to determine the vision and values of the Trust;
- 1.1.5** to determine the service and financial strategy of the Trust and to monitor the delivery of those strategies;
- 1.1.6** to ensure the financial viability of the Trust;
- 1.1.7** to ensure the clinical quality and safety through a system of clinical governance
- 1.1.8** to provide services in accordance with agreed contracts; to ensure that adequate systems are in place to measure and monitor the Trust's effectiveness, efficiency and economy as well as the quality of its healthcare delivery; and
- 1.1.9** to ensure the Trust co-operates with other NHS bodies, Local Authorities and other stakeholders and relevant organisations with an interest in the health economy
- 1.1.10** The powers of the Trust established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in the Constitution.
- 1.1.11** NHS Foundation Trusts are governed by Acts of Parliament, mainly the National Health Service Act 2006 and subsequent versions.
- 1.1.12.** All funds or property received in trust under section 22 of the 2003 Act shall be in the name of the Trust as corporate trustee. In relation to funds held on trust, powers exercised by Directors acting on behalf of the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust. Directors acting on behalf of the Trust as a corporate trustee are acting as quasi-trustees under Chapter 5, section 51 of the 2006 Act. Accountability for charitable funds held on trust is in accordance with the relevant arrangements made by the Charity Commission and to the Secretary of State for Health.

- 1.1.13. The Trust has resolved that certain powers and decisions may only be exercised or made by the Board in formal session. These powers and decisions are set out in “Schedules of Decision Reserved for the Trust Board and have effect as if incorporated into the Standing Orders. Those powers and decisions not reserved to the Board are delegated to Officers and other bodies as described in the Scheme of Delegation and have effect as if incorporated into these Standing Orders.

## 2. Composition of the Trust Board of Directors

- 2.1 In accordance with the 2006 Act, Terms of Authorisation and the Constitution, the Board of Directors of the Trust shall comprise both Executive and Non-Executive Directors as follows:

2.1.1. A Non-Executive Chair

2.1.2 Up to 7 other Non-Executive Directors (one appointee will act as the Deputy Chair and one the Senior Independent Non-Executive Director, the same appointee may be appointed to both roles))

2.1.3 Up to 7 Executive Directors which shall include:

- ***the Chief Executive (the Chief Officer)***
- ***the Director of Finance (the Chief Finance Officer)***
- ***a medical or dental practitioner***
- ***a registered nurse or midwife***

2.1.4. Other Directors may be appointed to the Board of Directors from time to time but shall have no voting rights.

2.1.5 The Non-Executive Directors and Chair together shall be equal to or greater than the total number of Executive Directors. In the case where the numbers are equal, in the instance of a vote, the Chair will have a casting vote.

2.1.6 Associate Non-Executive Directors: Associate Non-Executive may be appointed to the Board on terms and conditions to be specified by the Board to provide additional advice and expertise to the Board and / or its Committees. Associate Non-Executive Directors will not be Directors of the Trust for the purposes of the National Health Service 2006 Act and thus will be non-voting appointees without executive or delegated executive functions or any power to bind the Trust.

2.2 Appointment and removal of the Chair, Non-Executive Directors and Associate Non-Executive Directors  
 The Chair, Non-Executive Directors and Associate Non-Executive Directors are appointed and may be removed by the Council of Governors in accordance with Schedule 7 of the 2006 Act and under Paragraph 13 of the Constitution.

2.3 Terms of Office of the Chair, Non-Executive Directors and Associate Non-Executive Directors

The provisions setting out the period of tenure of office of the Chair and Non-Executive Directors and the termination or suspension of office are contained in the Constitution, supplemented by the Code of Governance for NHS provider Trusts. The terms and conditions of the office are decided by the Council of Governors, informed by the Code of Governance for NHS provider Trusts.

The terms and conditions relating to the office of Associate Non-Executive Directors are decided by the Council of Governors.

**2.4 Appointment of Deputy Chair**

For the purpose of enabling the proceedings of the Board of Directors to be conducted in the absence of the Chair, the Directors of the Trust will appoint a Non-executive Director from amongst them to be Deputy Chair. This individual may, through agreement with the Chair take on the role of Senior Independent Non-Executive Director (SINED), as contained in 12.11 of the Constitution.

The appointment should be for a period which does not exceed the remainder of the term. Any Non-Executive Director so elected may at any time resign from the office of Deputy Chair by giving notice in writing to the Chair. The Directors of the Trust may thereupon appoint another Non-Executive Director as Deputy Chair in accordance with these Standing Orders.

**2.5 Powers of Deputy Chair**

Where the Chair has ceased to hold office or where he/she has been unable to perform his/her duties as Chair owing to illness, absence or any other cause, references to the Chair shall, so long as there is no Chair able to perform those duties, be taken to include references to the Deputy Chair.

**2.6 Appointment of Senior Independent Director**

The Board of Directors shall, following consultation with the Council of Governors, appoint one of the Non-Executive Directors to be their Senior Independent Director using the procedure set out in the Constitution.

Any appointment will be for such a period not exceeding the remainder of his/ her term as a Non-Executive Director agreed by the Council of Governors.

**2.7 Appointment and Removal of Directors**

The Chief Executive shall be appointed or removed by the Chair and the Non-Executive Directors. The appointment requires the approval of the Council of Governors.

A Committee consisting of the Chair, the Chief Executive and other Non-Executive Directors (as specified in the terms of reference) shall appoint or remove the other Executive Directors and non-voting Directors.

**2.8 Appointment of Deputy Chief Executive**

The Board may appoint an Executive Member as Deputy Chief Executive.

Any person so appointed may resign at any time from the office of Deputy Chief Executive by giving notice in writing to the Chief Executive. In the event of a resignation, the Board may appoint another Executive Member.

**2.9.1 Joint Directors**

Where more than one person is appointed jointly to a post in the Trust which qualifies the holder for Executive Directorship or in relation to which an Executive Director is to be appointed, those persons shall become appointed as an Executive Director jointly and shall count for the purpose of Standing Orders as one person.

Where the office of a Member of the Board is shared jointly by more than one person:

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

**2.10 Role of Directors**

The Board will function as a corporate decision-making body. Executive Directors and Non-Executive Directors will be full and equal Directors. Their role as Directors on the Board will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions in accordance with the Code of Governance. The function and role of Directors is described within these Standing Orders and documents incorporated into these Standing Orders.

**2.11 Executive Directors**

Executive Directors shall exercise their authority within the terms of these Standing Orders, Standing Financial Instructions and the Scheme of Delegation.

**2.12 Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. He/she is the Accounting Officer for the Trust and shall be responsible for ensuring the discharge of obligations under applicable financial directions and NHS England guidance and in line with the requirements of the NHS Foundation Trust Accounting Officer Memorandum.

**2.13 Director of Finance**

The Director of Finance is responsible for the provision of financial advice to the Trust and to its Directors and for the supervision of financial control and accounting systems. He/she is responsible along with the Chief Executive for ensuring the discharge of obligations under applicable financial directions and NHS England guidance.

**2.14 Non-Executive Directors**

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

**2.15 Chair**

The Chair is responsible for the operation of the Board and will chair all Board meetings when present.

The Chair has certain delegated executive powers.

The Chair must comply with the terms of appointment and with these Standing Orders.

The Chair shall liaise with the Council of Governors and the Nominations and Remuneration Committee over the appointment of Non-Executive Directors and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

The Chair shall work in close harmony with the Chief Executive

The Chair shall ensure that key and appropriate issues are discussed by the Board in a timely manner with all the necessary information and advice being made available to the Board to inform the debate and ultimate resolutions

The Chair will ensure that the designation of lead roles or appointments of Board Members as required by NHS England or as set out in any statutory or other guidance will be made in accordance with that guidance or statutory requirement.

**2.16 Secretary**

The Board of Directors shall appoint the Secretary of the Trust and subject to following good employment practice, may also remove that person. The Secretary may not be a Governor, or the Chief Executive or the Director of Finance. The Secretary shall be accountable to the Chief Executive and their functions shall be as listed in the Constitution.

## PART 2

### MEETINGS OF THE BOARD OF DIRECTORS

#### 3.1 Admission of the Public and the Press

The public and representatives of the press shall be afforded facilities to attend all ordinary/formal meetings of the Board but shall be required to withdraw upon the Board resolving as follows:

“That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest” (Section 1 (2) Public Bodies (Admission to Meetings) Act 1960).

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

“That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Board to complete business without the presence of the public (Section 1 (8) Public Bodies (Admission to Meetings) Act 1960).

Business proposed to be transacted when the press and public have been excluded from a meeting as provided for in Standing Order 2.1, shall be confidential to members of the Board.

Nothing in these Standing Orders shall require the Board of Directors to allow members of the public or representatives of the press to record proceedings in any manner whatsoever, other than writing, or to make any oral report of the proceedings as they take place without prior agreement of the Board of Directors.

The provisions of these Standing Orders relating to meetings of the Trust Board shall refer only to formal Trust Board meetings, whether ordinary or extraordinary meetings. The provisions shall not apply to workshops or other meetings attended by members of the Trust Board.

#### 3.2 Observers at Board meetings

The Board of Directors will decide what arrangements and terms and conditions it feels are appropriate to offer in extending an invitation to observers to attend and address any of the Trust Board meetings and will change, alter or vary these terms and conditions as it deems fit.

#### 3.3 Public questions

Members of the public wishing to submit questions to the Board of Directors meeting will be required to submit these in writing by close of play the day before the meeting. The Chair will have the discretion to accept questions at the meeting if appropriate. Questions / statements must not relate to any information defined as confidential under Section 1 (2) of the Public Bodies (Admissions to Meetings) Act 1960, unless the matter relates to a person’s personal circumstances where that person has given their consent to it being raised at a public meeting. The Chair’s ruling on the appropriateness of the question / statement is final. The Chair will reserve the right to respond to questions in writing if time does not permit these questions to be answered in the meeting.

#### 3.4 Calling Meetings

Ordinary meetings of the Board of Directors shall be held at regular intervals at such times and places as the Board of Directors may determine.

Meetings of the Board of Directors may be called by the Secretary or by the Chair at any time.

Meetings may also be called by at least one-third of the directors who are eligible to vote, giving written notice to the Secretary specifying the business to be carried out. The Secretary should send a written notice to all Directors within seven days of receiving such a request. If the Chair or Secretary refuses to call a meeting after such a request one-third or more of Directors who are eligible to vote may forthwith call a meeting.

### **3.5 Notice of Meetings and Business to be Transacted**

Before each meeting of the Board of Directors of the Trust, a notice of the meeting, specifying the business proposed to be transacted at it, shall be delivered by email or equivalent electronic means to every Director, or by post to the usual place of residence of such Director, so as to be available at least three working days before the meeting.

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

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.

No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 2.6 (emergency motions).

Before each meeting of the NHS Foundation Trust a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed on the Trust's website at least three working days before the meeting. (required by the Public Bodies (Admission to Meetings) Act 1960 S.I. (4) (a))

The Board of Directors may agree that its members can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting

### **3.6 Chair of the Meeting**

At any meeting of the Board of Directors the Chair, if present, shall preside. If the Chair is absent, the Deputy Chair shall preside. If the Chair and Deputy Chair are absent one of the other Non-Executive Directors in attendance, as chosen by the Board of Directors shall preside.

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.

The decision of the Chair of the meeting on questions of order, relevancy, and regularity (including procedure on handling motions and the Chair's interpretation of the Standing Orders shall be final. In this interpretation the Chair shall be advised by the Chief Executive and the Company Secretary and in the case of Standing Financial Instructions the Chair shall be advised by the Director of Finance.

### **3.7 Agenda and Supporting Papers**

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

A Director who requires a matter to be included on an agenda should advise the Secretary to the Board prior to the agenda being agreed with the Chair and no less than 10 working days before a 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 ten days before a meeting may be included on the agenda at the discretion of the Chair.

The agenda will be sent to Directors and Governors five working days before the meeting. Supporting papers, whenever possible, shall accompany the agenda sent to Directors, save in an emergency.

Where a petition has been received by the Trust, the Chair shall include the petition as an item for the agenda of the next Board of Directors' meeting.

### **3.8 Annual Members' Meeting**

The Trust will publicise and hold an annual members' meeting in accordance with its Constitution.

### **3.9 Notices of Motion**

A Director of the Trust wishing to move or amend a motion should advise the Secretary to the Board prior to the agenda being agreed with the Chair and no less than -7 working days before a meeting. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda.

### **3.10 Emergency Motion**

Subject to the agreement of the Chair, a Director may give written notice of an emergency motion after the issue of the notice of the meeting and agenda up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chair's decision is final.

### **3.11 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.

### **3.12 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 (6)** calendar months shall bear the signature of the director who gives it and also the signature of the majority of the other directors. When any such motion has been disposed of by the Trust, it shall not be competent for any director other than the Chair to propose a motion to the same effect within **six (6)** months, however the Chair may do so if he/she considers it appropriate.

### **3.13 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.

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

- (a) An amendment to the motion.
- (b) The adjournment of the discussion or the meeting.
- (c) That the meeting proceed to the next business. (\*)
- (d) The appointment of an ad hoc committee to deal with a specific item of business.
- (e) That the motion be now put. (\*)

- (f) A motion under Section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960 resolving to exclude the public (including the press).

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, advised by the Secretary, the amendment negates the substance of the motion.

### **3.14 Chair's Ruling**

Statements of Directors made at meetings of the Board of Directors 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 observed at the meeting.

### **3.15 Voting**

It is not a requirement for decisions to be subject to a vote. The necessity of a vote shall be indicated by the agreement of at least one third of those attending and eligible to vote. The Chair shall be responsible for deciding whether a vote is required and what form this will take.

Where it is necessary to take a vote to determine an issue, every question put to a vote at a meeting shall be determined by a majority of the votes of the Chair of the meeting and the Directors present and voting on the question and, in the case of any equality of votes, the person presiding shall have a second or casting vote. No resolution of the Board of Directors shall be passed by a majority composed only of Executive Directors or Non-Executive Directors.

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.

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.

If a Director so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).

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

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

Where the office of a Director who is eligible to vote is shared jointly by more than one person, see Standing Order 3.17 for voting rules.

Where necessary, a Director may be counted as present when available constantly for discussions through an audio or digital link and may take part in voting on an open basis.

### **3.16 Minutes**

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

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.

Minutes shall be circulated in accordance with Directors' wishes. Where providing a record of a public meeting the minutes shall be made available to the public via the Trust website (required by Code of Practice on Openness in the NHS). A record of items discussed in private will be maintained and approved by the Board of Directors.

### **3.17 Joint Directors**

Where a post of Executive Director is shared by more than one person

- a) Both persons shall be entitled to attend meetings of the Trust.
- b) If both are present at a meeting, they should cast one vote if they agree.
- c) In the case of disagreement between them no vote should be cast.
- d) The presence of either or both of those persons shall count as one person for the purposes of SO 3.20 Quorum.

### **3.18 Suspension of Standing Orders**

Except where this would contravene any statutory provision or any direction made by NHS England, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Board of Directors are present, including two Executive Directors and two Non-Executive Directors, and that a majority of those present vote in favour of suspension.

A decision to suspend SOs shall be recorded in the minutes of the meeting.

A separate record of matters discussed during the suspension of SOs shall be made and shall be available to the Directors.

The Audit and Risk Committee shall review every decision to suspend SOs.

### **3.19 Variation and Amendment of Standing Orders**

These Standing Orders shall be amended only if:

- (a) a notice of motion under Standing Order 3.10 has been given; and
- (b) upon a recommendation of the Chair or Chief Executive included on the agenda for the meeting
- (b) no fewer than half the total of the Trust's total Non-Executive Directors vote in favour of amendment; and
- (c) at least two-thirds of the Directors are present at the meeting where the variation is being discussed; and
- (d) the variation proposed does not contravene a statutory provision or provision of authorisation or of the Constitution.

### **3.20 Record of Attendance**

The names of the Chair and Directors present at the meeting, and others invited by the Chair, shall be recorded in the minutes. The Secretary shall maintain a record of the number of meetings of the Board of Directors and the attendance of individual Directors. This will

include those who participate by telephone, video or computer link in accordance with these SOs.

If a Director is not present for the entirety of the meeting, the minutes shall record the items that were considered when they were present.

### **3.21 Quorum**

No business shall be transacted unless six of the Directors are present (including three Executives and three Non-Executives are present), one of whom is the Chair or Deputy Chair and as such has a casting vote.

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

If the Chair or 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 SOs 5 he/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 three Executive Directors to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting.

## **PART 3**

### **ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION AND COMMITTEES**

Subject to a provision in the authorisation or the Constitution, the Board of Directors may delegate any of its functions to a committee or sub-committee, appointed by virtue of SO 4.2 below, or by a director or an officer of the Trust. In each case, these arrangements shall be subject to such restrictions and conditions as the Board of Directors thinks fit.

#### **4.1 Urgent Decisions**

The powers which the Board of Directors has retained to itself within these Standing Orders (SO 2.5) may in emergency be exercised by the Chief Executive and the Chair acting jointly after having consulted at least two Non-executive Directors. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board of Directors for ratification.

#### **4.2 Delegation to Committees**

The Board of Directors shall agree from time to time to the delegation of executive powers to be exercised by internal 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 of Directors.

#### **4.3 Delegation to Officers**

Those functions of the Trust which have not been retained as reserved by the Board of Directors or delegated to an executive committee or sub-committee shall be exercised on behalf of the Board of Directors by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the Board of Directors.

#### **4.4 Schedule of Decisions Reserved to the Trust Board**

The Chief Executive shall prepare a Schedule of Decisions reserved for the Trust Board identifying the matters for which approval is required by the Board of Directors.

The Chief Executive may periodically propose amendment to the Schedule of Decisions Reserved to the Trust Board which shall be considered and approved by the Board of Directors as indicated above; and shall update the schedule after each review.

Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of Directors of the Director of Finance or other Executive Director to provide information and advice to the Board of Directors in accordance with any statutory requirements and the Terms of Authorisation.

The arrangements made by the Board of Directors as set out in the "Schedule of Decisions Reserved to the Trust Board shall have effect as if incorporated in these Standing Orders.

The Schedule of Decisions Reserved for the Trust Board shall take precedence over any terms of reference or description of functions of any committee or sub-committee established by the Trust Board. The powers and functions of any committee or sub-committee shall be subject to and qualified by the reserved matters contained in that schedule.

#### **4.5 Overriding Standing Orders**

If for any reason these Standing Orders are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around non-compliance shall be reported to the next formal meeting of the Audit and Risk Committee

and Board of Directors for action or ratification. All members of the Board of Directors, Membership Council and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.

#### **4.6 Scheme of Delegated Authorities**

Standing Order (SO) 3 summaries the Board's powers to "arrange for the exercise of any of its functions by:

- an internal Committee or sub-Committee appointed by virtue of SO 4 Committees
- or by a Director or officer of the Trust,

in each case subject to such restrictions and conditions as the Board thinks fit or as NHS England may direct.

The Trust Board shall adopt a Scheme of Delegated Authorities covered in a separate document (Scheme of Delegation) and financial delegation in the Standing Financial Instructions. These documents have effect as if incorporated into the Standing Orders.

The Scheme of Delegated Authorities sets out details of the directors and officers of the Trust to whom responsibility has been delegated for deciding particular matters. The Schedule that is current at the date of adoption of these Standing Orders is contained in Appendix A.

Subject to Standing Order 7.4 the Trust Board shall review such Schedule at such times as it considers appropriate; and shall update such Schedule in Appendix A after each review.

The direct accountability, to the Trust Board, of the Chief Finance Officer and other Executive Directors to provide information and advise the Trust Board in accordance with any statutory requirements shall not be impaired, in any way, by the delegations set out in the Scheme of Delegated Authorities.

Wherever the title Chief Executive, Director of Finance or other Officer position is used in these Standing Orders, it will be deemed to include such other employees who have been duly authorised to deputise, such as an employee formally deputising into the post during a period of absence of the substantive post holder or to cover a vacant post, subject to such deputising arrangements being formally documented and signed off appropriately.

#### **4.7 Appointment of Committees**

Subject to the authorisation and the Constitution, the Board of Directors may appoint internal Committees of the Trust consisting wholly or partly of the Chair and Director of the Trust or wholly of persons who are not Directors of the Trust. Committees will be subject to review by the Trust Board from time to time.

The Committees to be established by the Trust will consist of statutory, mandatory and non-mandatory Committees.

A Committee may appoint sub-committees consisting of wholly or partly of members of the Committee or wholly of persons who are not members of the Committee.

#### **4.8 Joint Committees**

The Trust may appoint a joint Committee by joining together with one or more other health or social care organisations consisting wholly or partly of the Chair and members of the Board of Directors or other health service bodies or wholly of persons who are not members of the Trust or other health bodies in question.

Any Committee or joint committee appointed under this SO may, subject to such directions as may be given by NHS Improvement or the Board of Directors or other health bodies in question, appoint sub-committees consisting wholly or partly of members of the Committee (whether or not they include directors of the Trust) or wholly of persons who are not members of the Trust Committee (whether or not they include Directors of the Trust).

**4.9 Applicability of Standing Orders and Standing Financial Instructions to Committees**

The Standing Orders of the Trust, as far as they are applicable, shall apply with appropriate alteration to meetings of any internal Committees or sub-committee established by the Trust. In which case the term 'Chair' is to be read as a reference to the Chair of the internal Committee as the context permits, and the term "Director" is to be read as a reference to a member of the internal Committee also as the context permits. There is no requirement to hold meetings of internal Committees established by the Trust in public.

**4.10 Terms of Reference**

Each such internal Committee or sub-committee shall have such terms of reference and powers. The Trust Board shall approve the terms of reference of each Board Committee. Committees and sub-committees shall be subject to such conditions (as to reporting back to the Board of Directors), as the Board of Directors shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders and be subject to regular review by that Committee or sub-committee and the Trust Board as required

**4.11 Delegation of powers by internal Committees to Sub-Committees**

Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board of Directors.

**4.12 Approval of Appointments to Internal Committees**

The Board of Directors shall approve the appointments to each of the internal Committees which it has formally constituted. Where the Board of Directors determines that persons, who are neither Directors nor officers, shall be appointed to an internal Committee, the terms of such appointment shall be determined by the Board of Directors. The Board of Directors shall define the powers of such appointees and shall agree the terms of their remuneration and/or reimbursement for loss of earnings and/or expenses subject to approval by the Council of Governors.

During a period of incapacity or temporary absence, Non-Executive Directors may nominate another named Non-Executive Director to attend a meeting of a Committee on their behalf. The status of the nominated Non-Executive Director shall be recorded in the minutes

**4.13 Minutes**

Minutes, or a representative summary of the issues considered, and decisions taken, of any Committee appointed under this Standing Order are to be formally recorded and submitted for inclusion onto the agenda of the next possible Trust Board meeting. Minutes, or a representative summary of the issues considered, and decisions taken of any sub-committee shall be submitted for inclusion onto the agenda of the next Committee meeting to which it reports.

**4.14 Appointments for statutory functions**

Where the Trust is required to appoint persons to an internal Committee and/or to undertake statutory functions as required by NHS England and where such appointments are to operate independently of the Trust such appointment shall be made in accordance with the regulations and directions made by NHS England.

**Statutory and Mandatory Committees**

## **4.15 Mandatory Committees**

### **Role of Audit and Risk Committee**

In line with the Code of Governance, the Trust Board shall appoint a Committee of three independent Non-Executive Directors to undertake the role of an Audit & Risk Committee. This role shall include providing the Trust Board with a means of independent and objective review of the financial systems and of general control systems that ensure that the Trust achieves its objectives, the reliability of the financial information used by the Trust and of compliance with law, regulations, guidance and codes of conduct. This Committee will pay due regard to good practice guidance, including, in particular, the NHS Audit Committee Handbook.

The terms of reference of the Audit & Risk Committee shall have effect as if incorporated into these Standing Orders and their approval shall be recorded in the appropriate minutes of the Trust Board and may be varied from time to time by resolution of the Trust Board.

The Council of Governors is responsible for the appointment of external auditors, working in conjunction with members of the Audit and Risk Committee.

### **Role of Nominations and Remuneration Committee of the Board of Directors**

In line with the Code of Governance the Trust Board shall appoint a Committee to undertake the role of a remuneration and nominations Committee. This role shall include providing advice to the Trust Board about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors, as well as advising the Trust Board on the terms of service of other senior officers and ensuring that the policy of the Trust Board on remuneration and terms of service is applied consistently.

The Committee shall advise the Trust Board on the size, structure and membership and succession plans for the Trust Board and maintain oversight of the performance of the Chief Executive and Executive Directors.

The terms of reference of the Nominations and Remuneration Committee of the Board of Directors shall have effect as if incorporated into these Standing Orders and their approval shall be recorded in the appropriate minutes of the Trust Board and may be varied from time to time by resolution of the Trust Board.

A separate Nomination and Remuneration Committee of the Council of Governors for Non-Executive Directors is in place as detailed in the Trust Constitution.

### **Charitable Funds Committee**

The Trust Board, in line with its role as Corporate Trustee, shall appoint a Committee to be known as the Charitable Funds Committee, whose role shall be to advise the Trust on the appropriate receipt, use and security of charitable monies in accordance with any statutory or other legal requirements or best practice required by the Charities Commission and Department of Health and Social Care.

The terms of reference of the Charitable Funds Committee shall have effect as if incorporated into these Standing Orders and shall be recorded in the appropriate minutes of the Trust Board, acting as Corporate Trustee, and may be varied from time to time by resolution of the Trust Board, acting in this capacity.

#### **4.16 Non-Mandatory Committees**

The Trust Board shall appoint such additional non-mandatory Committees as it considers necessary to support the business and inform the decisions of the Trust Board

The terms of reference of these Committees shall have effect as if incorporated into these Standing Orders. The approval of the terms of reference shall be recorded in the appropriate minutes of the Trust Board and may be varied from time to time by resolution of the Trust Board.

The membership of these Committees may comprise Non-Executive Directors or Executive Directors, or a combination of these. The membership and voting rights shall be set out in the terms of reference of the Committee and shall be subject to approval by the Board.

##### **Committees established by the Board**

The current non-mandatory internal Committees established by the Trust Board are:

- Finance and Performance Committee
- Quality Committee
- Workforce Committee
- Joint Liaison Committee
- Transformation Programme Board
  
- West Yorkshire Association of Acute Trusts (WYAAT) Committee in Common

#### **4.17 Appointment to the WYAAT Committee in Common**

Membership of the Committee in Common will be defined in the Terms of Reference, which will be agreed or amended by all Parties. The Board of Calderdale and Huddersfield NHS Foundation Trust has not agreed to delegate any of its statutory functions to the Committee in Common. The scope of the Committee in Common will be responsible for leading the development of the WYAAT collaborative programme and the workstreams in accordance with the defined key principles, setting overall strategic direction in order to deliver the WYAAT collaborative programme.

The above are subject to change at the discretion of the Trust Board. Such other Committees may be established as required to discharge the Board's responsibilities and will have the same standing and be subject to the same standing orders.

#### **4.18 Confidentiality**

Proceedings in Committee meetings are confidential. There is no requirement for meetings of Trust Board Committees and sub-committees to be held in public, or for agenda or records of these meetings to be made public. However, the records of any meetings may be required to be disclosed, should a valid request be made under the rights conferred by the Freedom of Information Act, 2000 and there is no legal justification for non-disclosure.

Committee members should normally regard matters dealt with or brought before the Committee as being subject to disclosure, unless stated otherwise by the Chair of the Committee. The Chair shall determine whether specific matters should remain confidential until they are reported to the Trust Board.

A member of a Committee, or observer of that 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 of Directors or shall otherwise have concluded on that matter.

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

#### **4.19 Election of Chair of Committee**

Each Committee shall appoint a Chair; and may appoint a vice-Chair from its membership. The terms of reference of the Committee shall describe any specific rules regarding who the Chair should be. Meetings of the Committee will not be recognised as quorate, if the Chair, or vice Chair, or other suitably qualified, nominated member of the Committee is not present to undertake the role.

Each Committee shall review the appointment of its Chair, as part of the annual review of the Committee's role and effectiveness.

#### **4.20 Special meetings of Committee**

The Chief Executive shall require any Committee to hold a special meeting, on the request of the Chair, or on the request, in writing of any two members of that Committee.

## PART 4

### **DUTIES AND OBLIGATIONS ON BOARD MEMEBRS, DIRECTORS AND SENIOR MANAGERS UNDER THESE STANDING ORDERS**

#### **5. DECLARATIONS OF INTERESTS, REGISTER OF INTERESTS AND COMPLIANCE WITH FIT AND PROPER PERSONS REGULATIONS**

Schedule 7 of the 2006 Act, Section 13.20 of the Constitution and the Trust Policy on Conflicts of Interests and Standards of Business Conduct requires all Board Directors (including Non-Executive Directors) and any other officers nominated by the Trust to declare interests which are relevant and material to the Board of Directors of which they are a member (including the WYAAT Committee in Common). A register of these interests must be kept by the Trust.

Statutory requirements relating to pecuniary interests are detailed at SO 5.4

##### **5.1 Declaration of Interests**

All existing Directors should declare such interests. Any Board Directors/officers appointed subsequently should do so on appointment.

Interests may be financial or non-financial (i.e. political or belief-based). Interests which should be regarded as relevant and material and which, for the avoidance of doubt should be included in the register are:

- Any directorship of a company;
- Any interest (excluding holding of shares in a company whose shares are listed on any public exchange where the holding does not exceed 2% of the total issued share capital or the value of such shareholding does not exceed £25,000) or position in any firm of company or business, which in connection with the matter, is trading with the Trust or is likely to be considered as a potential trading partner with the Trust including private healthcare organisations and other foundation trusts;
- Any interest in an organisation providing health and social care services to the NHS;
- Position of authority in a charity or voluntary organization in the field of health or social care;
- Any affiliation to a special interest group campaigning on health or social care issues.

To the extent not covered above, any connection with an organisation, entity or company considering entering in to or having entered into financial arrangement with the NHS Foundation Trust, including but not limited to lenders or banks.

WYAAT Committee in Common – the Chair and Chief Executive of Calderdale and Huddersfield NHS Foundation Trust will adhere to declaring interests as described within the Conflict of Interests section 10 of the Memorandum of Understanding.

Reference should also be made to the NHS England *Code of Governance* and the Trust's Constitution and Policy on Conflicts of Interests and Standards of Business Conduct in determining whether other circumstances or relationship are likely to affect, or could appear to affect, the Director's judgement.

Any Director who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Directors.

At the time Board 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.

Board 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.

During the course of a meeting of the Board of Directors, 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. For the avoidance of doubt this includes voting on such an issue where a conflict is established. If there is a dispute as to where a conflict does exist a majority vote will resolve the issue with the Chair having the casting vote. If by inadvertence they do remain and vote, their vote shall not be counted. Declarations made during the course of a meeting should be recorded in the minutes.

There is no requirement in the Code of Accountability for the interest of Directors' spouses or partners to be declared. However, in accordance with the Nolan Principles of integrity, accountability and openness, good practice suggests that such declarations are strongly advisable (as are declaring the interests of other immediate family members and co-business partners). SO 5.4 (pecuniary interest), which is based on these regulations requires that the interests of spouses or partners (if living together) in contracts should be declared. Therefore the interests of spouses or cohabiting partners should also be regarded as relevant.

If Board Directors/officers have any doubt about the relevance of an interest, this should be discussed with the Chair or Company Secretary. Financial reporting standard 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partner in professional partnerships including general medical practitioners should also be considered.

## **5.2 Register of Interests**

The Company Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Board Directors and officers and is considered by the Board. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by both Board directors and officers, as defined in SO 5.1. The Register shall also contain the names of all members of the Board of Directors including those who have no interests.

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

The Register will be available to the public and open to inspection via the Trust website.

## **5.3 Compliance with Fit and Proper Persons Regulations**

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 requires all Trusts to ensure that all Executive and Non-Executive Director posts (or anyone performing similar or equivalent functions) are filled by people that meet the requirements of the Fit and Proper Persons Regulations ('FPPR'). The definition of Directors includes those in permanent, interim or associate roles, irrespective of their voting rights at Board meetings.

Individuals must be: of good character, have the necessary qualifications, competence, skills and experience for their role, have the appropriate level of physical and mental fitness, have not been party to any serious misconduct or mismanagement in the course of carrying on a regulated activity, and not be deemed unfit under the Regulation provisions

The regulations stipulate that Trusts must not appoint or have in place an Executive Director or a Non-Executive Director unless they meet the standards set out in the Regulations. The guidance issued by the CQC in January 2018 places ultimate responsibility on the Chair to discharge the requirements of the FPPR. The Chair must assure themselves that new applicants and existing post holders meet the fitness checks and do not meet any of the unfit criteria. Responsibility also falls on the Chair to decide whether an investigation is necessary and, at the end of the investigation, to consider whether the Director in questions remains fit and proper. The Chair will be notified by the CQC of any non-compliance with the FPPR and holds responsibility for making any decisions regarding action that needs to be taken.

#### **5.4 Exclusion of the Chair and Directors in Proceedings on Account of Pecuniary Interest**

Subject to the following provisions of this Standing Order, if the Chair or 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/she shall at the meeting and as soon as practicable after its commencement disclose the fact and should withdraw so as not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

The Secretary of State may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability shall be removed.

The Board of Directors may exclude the Chair or a Director from a meeting of the Trust while any contract, proposed contract or other matter in which he/she has a pecuniary interest, is under consideration.

Any remuneration, compensation or allowances payable to the Chair or Director by virtue of paragraph 233, Part 11 of the NHS Act 2006 shall not be treated as a pecuniary interest for the purpose of this Standing Order.

For the purpose of this Standing Order the Chair or a Director shall be treated, subject to SO 5.4, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

- (a) he/she, or a nominee of his/hers, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he/she is a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and in the case of persons living together the interest of one person shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.

The Chair or Director shall not be treated as having a pecuniary interest in any contract proposed contract or other matter by reason only:

- (a) of his/her membership of a company or other body, if he/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 he/she 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.

Where the Chair or 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 he/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 him/her from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it without prejudice however to his/her duty to disclose his/her interest.

This Standing Order applies to a Committee or sub-committee of the Trust as it applies to the Board of Directors and applies to any member of any such Committee or sub-committee (whether or not he/she is also a Director of the Trust) as it applies to a Director of the Trust.

## 5.5 Standards of Business Conduct

### 5.5.1. Policy

All members of staff must comply with the national guidance contained in the [NHS England » Standards of Business Conduct Policy](#) and Trust guidance in the Policy on Conflict of Interest and Standards of Business Conduct.

### 5.5.2 Standards of Public Life (Nolan Principles)

The Trust adheres to and expects all staff to abide by the seven principles of public life set out by the Parliamentary Committee on Standards of Public Life.

These are:

- **Selflessness:** Holders of public office should act solely in terms of the public. This version of the Standing Orders can only be guaranteed to be the current adopted version, if it is opened directly from the Trust's intranet library of policies and procedures. interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** Holders of public office should be truthful.
- **Leadership:** Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

The following provisions should be read in conjunction with this document.

#### **5.5.3. Interest of Officers in Contracts**

If it comes to the knowledge of a Board Director or an officer of the Trust that a contract in which he/she has any pecuniary interest not being a contract to which he/she is him/herself a party, has been, or is proposed to be, entered into by the Trust he/she shall, at once, give notice in writing to the Chief Executive of the fact that he/she is interested therein. In the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

An officer must also declare to the Chief Executive and declare in a register of interest any other employment or business or other relationship of his/hers, or of a cohabiting spouse or partner, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.

#### **5.5.4 Canvassing of, and Recommendations by, Directors in Relation to Appointments**

Canvassing of Board Directors or officers 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.

A Board Director or officer 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.

Informal discussions outside appointments panels or Committees, whether solicited or unsolicited, should be declared to the panel or Committee.

Failure to declare any interest which may conflict with, or compromise, any employee's Trust duties and obligations in respect of the award, operation or administration of a Trust / NHS contract may result in a potential breach of the Bribery Act 2010 and necessitate further investigation by the Trust's counter fraud specialist.

#### **5.5.5. 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 him/her liable to instant dismissal.

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 Foundation Trust any such disclosure made.

Any alleged false representation contained on any application to the Trust, or failure to disclose any information when required to do so, may also result in investigation by the Trust's counter fraud specialist and / or NHS Counter Fraud Authority and possible prosecution under the Fraud Act 2006.

On appointment, Directors or officers (and prior to acceptance of an appointment in the case of executive directors) should disclose to the Foundation Trust whether they are related to any other Director or holder of any office under the Trust.

Where the relationship of an officer or another Director to a Board Director of the Trust is disclosed, the Standing Order headed 'Exclusion of Directors in proceedings on account of pecuniary interest' shall apply.

The key elements of the Trust's Standards of Business Conduct with which Directors and officers are required to comply are:

- a. refuse gifts and hospitality above the value of £50.
- b. declaration of Business interests.
- c. decline offers of preferential treatment.
- d. permission to undertake outside employment.
- e. declaration of offers of commercial sponsorship.
- f. declaration of rewards.
- g. respect confidentiality of information.

The principles set out in this Standing Order may be expanded by the Trust's Standards of Business Conduct as from time to time approved by the Board of Directors.

## **PART 5**

### **CUSTODY OF SEAL AND SEALING OF DOCUMENTS**

#### **6.1 Custody of Seal**

It is the responsibility of the Chief Executive to ensure that the Common Seal of the Trust is kept in a secure place.

#### **6.2 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 of Directors or of a Committee thereof or in accordance with any delegation by the Board of its power. The affixing of the Seal shall be attested and signed for by two Executive Directors (not from the originating department) or one Executive Director and the Company Secretary.

Before any building, engineering, property, or capital document is sealed the scheme must be approved and authorised and countersigned by the Chief Executive (or an officer nominated by him/her who shall not be within the originating department.)

Contracts for the purchase of goods and services shall be under seal where the aggregate contract value may be reasonably expected to exceed £500,000.

#### **6.3 Register of Sealing**

An entry of every sealing, including the name of the persons who have approved and authorised the document and attested the sealing shall be made and numbered consecutively in a register provided for that purpose.

A report of all sealings shall be made to the Board of Directors bi-annually. The report shall contain details of the seal number, the description of the document and the date of sealing. The book will be held by the Chief Executive or nominated officer.

The seal should only be used to execute deeds or where otherwise required by law. Where it is unclear whether the use of the seal is necessary, appropriate legal advice should be sought by the Company Secretary or Officer nominated by the Secretary.

#### **6.4 Signature of Documents**

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 or any other Executive Director, 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.

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.

## **PART 6 MISCELLANEOUS**

### **7.1 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 Standing Financial Instructions. Links to these policies shall be issued by email to staff designated by the Chief Executive. New designated officers shall be informed in writing and shall receive e-copies where appropriate of SOs.

### **7.2**

A copy of these Standing Orders will be held, with unrestricted access to all staff, on the Trust's intranet site.

### **7.3 Documents having the standing of Standing Orders**

Standing Financial Instructions and Scheme of Delegation shall have the effect as if incorporated into SOs.

### **7.4 Review of Standing Orders**

Standing Orders and all documents having effect as if incorporated in Standing Orders shall normally be reviewed regularly by the Audit and Risk Committee on behalf of the Board of Directors before a recommendation is made to the Board for adoption.

### **7.5 Non-availability of the Chair / Deputy Chair and Chief Executive / Director of Finance.**

Save as expressly provided in these standing orders if the Chair of the Trust is not available for whatever reason to transact the business of the Trust expressly or by implication delegated to him/her, then the Deputy Chair shall be empowered to act in his/her place and to exercise all the powers and duties of the Chair until the Chair is again available.

If the Deputy Chair is not available for whatever reason to transact the business of the Trust expressly or by implication delegated to him/her, then any two Non-Executive Directors shall be empowered to act in his/her place and to exercise all the powers and duties of the Deputy Chair in relation to that matter.

If the Chief Executive is not available for whatever reason, then any of the Chief Executive's powers and duties expressly or by implication under these Standing Orders may be exercised on his/her behalf by some other officer duly authorised by the Chief Executive in writing so to act.