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**CAMBRIDGE UNIVERSITY HOSPITALS  
NHS FOUNDATION TRUST  
(A PUBLIC BENEFIT CORPORATION)**

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**CONSTITUTION**

# CAMBRIDGE UNIVERSITY HOSPITALS NHS FOUNDATION TRUST

## CONSTITUTION

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## Summary of changes

Version Number	Summary of change	Board of Directors	Council of Governors
1	Adoption of new Trust Constitution	12 September 2018	26 September 2018
2	<p>a) Amendment to the public constituency to add West Suffolk District Council and remove references to Forest Heath District Council and St Edmundsbury District Council.</p> <p>b) Replacing existing provision for individuals not employed by the Trust</p> <p>“Individuals who exercise functions for the purposes of the Trust may apply for membership of the staff constituency. Individuals who are admitted to the staff membership through this option are not eligible to simultaneously be a member of another constituency.”</p> <p>c) Amending section 9a regarding process for the re-appointment of</p>	16 January 2019	19 December 2018

<b>Version Number</b>	<b>Summary of change</b>	<b>Board of Directors</b>	<b>Council of Governors</b>
	Non-Executive Directors beyond six years. d) Correction of minor drafting errors.		
3	Removal of the requirement to publish a photograph for candidates in the public and patient constituencies.	10 April 2019	20 March 2019
4	Amendment of the role description for the Lead and Deputy Governor, including formally incorporating the maximum term of office into the constitution.	N/A – Only approval required from the Council of Governors to amend this section of the constitution	25 September 2019
5	Increasing the maximum permitted number of Non-Executives from eight to nine	10 October 2019	25 September 2019
6	Removal of the requirement to publish a photograph for candidates in the staff constituency.	N/A	18 December 2019
7	Amendment to the Electoral Rules and minor textual changes.	20 January 2022	15 December 2021
8	Amendment to annex 9a – Appointment of Non-Executive Directors.	N/A	17 May 2022

9	Amendment (at Annex 1) to the Public Constituency following Local Government Boundary Commission for England review of electoral arrangements in East Hertfordshire resulting in the addition of eight civil parishes within the Public Constituency.	12 July 2023	22 March 2023
10	Amendment to the provisions at paragraph 14 relating to the filling of a patient, public or staff governor vacancy which arises between scheduled elections to permit co-option of a candidate from the most recent election in a wider range of circumstances.	13 September 2023	20 September 2023

## 1. Interpretation and definitions

Unless otherwise stated, words or expressions contained in this constitution shall bear the same meaning as in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012.

**the 2006 Act** is the National Health Service Act 2006.

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

**Annual Public Meeting** is defined in paragraph 12 of the constitution.

**Constitution** means this constitution and all annexes to it.

**NHS England and Improvement** is the operational name of the organisation including Monitor. In exercising certain legal responsibilities, the powers are exercised in the name of Monitor.

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.

## 2. Name

The name of the foundation trust is Cambridge University Hospitals NHS Foundation Trust (the trust).

## 3. Principal purpose

- 3.1 The principal purpose of the trust is the provision of goods and services for the purposes of the health service in England.
- 3.2 The trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
- 3.3 The trust may provide goods and services for any purposes related to—

- 3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
- 3.3.2 the promotion and protection of public health.

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

#### 4. **Powers**

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

#### 5. **Membership and constituencies**

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

- 5.1 a Public Constituency
- 5.2 a Staff Constituency and
- 5.3 a Patients' Constituency

#### 6. **Application for membership**

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

#### 7. **Public Constituency**

- 7.1 An individual who lives in the area specified in Annex 1 may become or continue as a member of the trust.
- 7.2 Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the

Public Constituency.

- 7.3 The minimum number of members in the Public Constituency is specified in Annex 1.

## **8. Staff Constituency**

- 8.1 An individual may become or continue as a member of the trust provided:
- 8.1.1 they are employed by the trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
  - 8.1.2 they have been continuously employed by the trust under a contract of employment for at least 12 months; or
  - 8.1.3 They are registered on the Trust's volunteering programme.
  - 8.1.4 Individuals who exercise functions for the purposes of the Trust may apply for membership of the staff constituency. Individuals who are admitted to the staff membership through this option are not eligible to simultaneously be a member of another constituency.
- 8.2 Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.3 The minimum number of members in the Staff Constituency is specified in Annex 2.

## **9. Automatic membership by default – staff**

- 9.1 An individual who is deemed to be a member of the Staff Constituency will become a member automatically, unless they inform the trust that they do not wish to do so. In the event of an eligible individual informing the Trust that they do not wish to be a member of the Staff Constituency and opt out, they may not subsequently join the Trust as a patient or public member unless they cease to be eligible to be member of the Staff Constituency.

## 10. **Patients' Constituency**

10.1 An individual who has, within the period specified below, attended any of the trust's hospitals (current or past) as either a patient or as the carer of a patient may become a member of the trust.

10.2 The period referred to above shall be from 5 July 1948 to the point of application.

10.3 Those individuals who are eligible for membership of the trust by reason of the previous provisions are referred to collectively as the Patients' Constituency.

10.4 An individual providing care in pursuance of a contract (including a contract of employment) with a voluntary organisation does not come within the category of those who qualify for membership of the Patients' Constituency unless otherwise qualified.

10.5 The minimum number of members in the Patients' Constituency is specified in Annex 3.

## 11. **Restriction on membership**

11.1 An individual who is a member of a constituency may not, while membership of that constituency continues, be a member of any other constituency.

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

11.3 An individual must be at least 16 years old to become a member of the trust.

## 12. **Annual Public Meeting**

12.1 The Trust shall hold an annual meeting which shall be open to members of the public and members of the Trust, and fulfill the legal obligation to convene an Annual Members' Meeting.

**13. Council of Governors – composition**

13.1 The trust is to have a Council of Governors, which shall comprise both elected and appointed governors.

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

13.3 The members of the Council of Governors, other than the appointed members (partnership governors), shall be chosen by election by their constituency. The number of governors to be elected by each constituency is specified in Annex 4.

**14. Council of Governors – election of governors**

14.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules which are set out in Annex 5.

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

14.3 In the event of a vacancy for an elected member of the Council of Governors arising outside of the normal election cycle, the vacancy shall be filled as follows:

- a) The next highest polling candidate in the relevant constituency at the most recent election, who is willing to take office and who secured at least 10% of the total number of ballots in the relevant constituency, shall be co-opted to fill the vacant seat on the Council of Governors until the next scheduled election, provided the co-option commences prior to the publication of the Notice of Election for the next scheduled election.
- b) In the event that it is not possible to fill the vacancy on the basis of a) above, the seat shall be left vacant until the next scheduled election unless the vacancy results in one or more of following occurring:
  - (i) The Council of Governors will not be quorate.
  - (ii) The number of vacancies in either the public, patient or staff constituency is greater than 50% of the places in the relevant constituency.

- c) In the event that b) (i) and/or (ii) above apply, and there is greater than six months until the next scheduled election, a by-election shall be convened for all current vacancies. The six months shall be calculated from the date of issuing of the formal Notice of Election. The successful candidates in the election will be elected for the remaining components of the departing governors' terms.

## **15. Council of Governors - tenure**

- 15.1 An elected governor may hold office for a period of up to three years in a single term.
- 15.2 An elected governor shall cease to hold office if they cease to be a member of the constituency by which they were elected.
- 15.3 An elected governor shall be eligible for re-election at the end of their term up to a maximum cumulative service of nine years. In the event of a governor having been elected for less than three years in a single or multiple terms, individuals who have served less than eight years cumulatively at the point of re-election will be eligible to stand for re-election subject to a maximum cumulative service of nine years.
- 15.4 An appointed governor may hold office for a period of up to three years in a single term and a maximum cumulative service of nine years.
- 15.5 An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them and/or they cease to be eligible to be a governor.
- 15.6 A governor with a combination of elected and appointed service may serve on the Council of Governors up to a maximum cumulative service of nine years.

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

- 16.1 The following may not stand for election to the Council of Governors or be nominated, become or continue as a member of the Council of Governors:
  - 16.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not

- been discharged.
- 16.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it.
  - 16.1.3 a person who within the preceding five years has been convicted in the United Kingdom of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.
  - 16.1.4 a person who is currently subject to a moratorium period under a debt relief order (under Part 7a of the Insolvency Act 1986 as amended by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009).
  - 16.1.5 a person who has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.
  - 16.1.6 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.
  - 16.1.7 a person who is a member of the Board of Directors of the trust.
  - 16.1.8 a person who is a director, governor, non-executive director, chair, chief executive or other executive director of an organisation the nature of whose business is to give rise to potential conflicts of interest of a personal or prejudicial nature to such a degree as to prevent the person from the proper exercise of their duties as a governor of the trust. Individual who are governors at one or more other foundation trusts are eligible to stand for election or be nominated to the Council of Governors but may not accept office to the Trust's Council of Governors without first resigning from all other elected governor roles.
  - 16.1.9 a person who has been disqualified or suspended from any healthcare profession, and has not subsequently had their qualification re-instated or suspension lifted (as applicable).
  - 16.1.10 a person fails to or indicates that they are unwilling to act in the best interests of the trust in accordance with the

values of the trust, the Code of Conduct for Members and Governors and/or The Seven Principles of Public Life laid out by the Committee on Standards in Public Life. In fulfilling this role, the Trust acknowledges that the governor is representing the interests of Trust members or partner organisations in the local health economy. Acting in the best interests of the Trust and engaging in constructive debate and challenge on behalf of the constituency a governor represents are not mutually exclusive. Only actions deemed by the Council of Governors or directors to be malicious or destructive will be viewed as failing to act in the best interests of the Trust.

- 16.1.11 a person who is the subject of a Sex Offender Order or who within the last five years has committed a serious incident of violence or abuse at any of the Trust's hospitals or facilities or against any of the Trust's employees or registered volunteers or patients.
- 16.1.12 a person who fails to complete a Disclosure and Barring Service (DBS) check application within 28 days of accepting office or being appointed by a nominating organisation. In the event of the DBS check identifying serious previous convictions or other significant information not covered by 16.1.3 or 16.1.11, the final decision regarding the suitability of the individual will rest with the Trust's chair.

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

16.3 If an elected governor fails to attend three successive meetings of the Council of Governors, their tenure of office is immediately terminated unless the Council of Governors are satisfied that:

- a) The absence was due to a reasonable cause; and
- b) They will be able to start attending meetings of the Trust again within such a period as the Council of Governors judges to be reasonable.

16.4 If an appointed governor fails to attend three successive meetings of the Council of Governors, the Trust will request that the nominating body reviews the appointment.

16.5 A governor may be removed by the Council of Governors by a resolution approved by not less than three quarters of the remaining governors present at that meeting on the grounds that:

- a) They have acted in a manner detrimental to the interests of the Trust, and
- b) The Council of Governors considers it is not in the best interests of the Trust for them to continue as a governor.

## **17. Council of Governors – duties of governors**

17.1 The general duties of the Council of Governors are:

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

17.1.2 to represent the interests of the members of the trust as a whole and the interests of the public.

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

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## **18. Council of Governors – meetings of governors**

18.1 The Chair of the trust or, in their absence, another person (as specified in the standing orders of the Council of Governors) shall preside at meetings of the Council of Governors.

18.2 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 consideration of confidential business by resolution of the Council of Governors.

18.3 For the purposes of obtaining information about the trust's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the trust's or directors' performance), the Council of Governors may require one or more of the directors to attend a meeting.

19. **Council of Governors – standing orders**

The standing orders for the practice and procedure of the Council of Governors are attached at Annex 7.

20. **Council of Governors - conflicts of interest of governors**

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

21. **Council of Governors – travel and other expenses**

21.1 The trust may pay travel and other expenses to members of the Council of Governors at rates determined by the trust.

22. **Board of Directors – composition**

22.1 The trust is to have a Board of Directors, which shall comprise both executive and non-executive directors. The composition of the Board of Directors must comply with the following requirements:

- a) The non-executive director members of the Board must be in the majority in relation to voting rights. For this purpose, the vote of the Chair (and where required the casting vote of the Chair) is included in the definition of non-executive directors.
- b) One of the executive directors shall be the Chief Executive. The Chief Executive shall be the Accounting Officer.
- c) One of the executive directors shall be the finance director
- d) One of the executive directors shall be a registered nurse or a registered midwife.

- e) One of the Executive Directors shall be a registered medical practitioner or registered dentist (within the meaning of the Dentists Act 1984).
- f) One of the Non-Executive Directors shall be the University of Cambridge, Regius Professor of Physic. With the agreement of the Regius of Professor of Physic, the University of Cambridge may nominate an alternative individual to the role subject to the nominee meeting the eligibility criteria.

22.2 The maximum number of Non-Executive Directors shall be nine (including the role specified in 22.1f). Subject to continued compliance with 22.1a, the Council of Governors and Board of Directors may amend the number of Non-Executive Directors.

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

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

24. **Board of Directors – qualification for appointment as a non-executive director**

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

24.1.1 they are a member of a Public Constituency, or

24.1.2 they are a member of the Patients' Constituency, or

24.1.3 they exercises functions for the University of Cambridge,

and

24.1.4 he/she is not disqualified by virtue of paragraph 28 below.

24.2 Individuals who do not meet the requirements of 24.1.1 by virtue of residence can be appointed and/or continue in office if the Council of Governors agrees to disregard the provision at initial appointment or re-appointment.

25. **Board of Directors – appointment and removal of chair and other non-executive directors**

25.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the chair of the trust and the other non-executive directors.

25.2 Removal of the chair or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.

26. **Board of Directors – appointment of vice chair and senior independent director**

26.1 One of the non-executive directors may be appointed as vice chair.

26.2 If the appointment of a vice chair is proposed, the Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors on the recommendation of the chair as vice chair.

26.3 One of the non-executive directors will be appointed by the Board of Directors following consultation with the Council of Governors as the senior independent director.

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

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

27.2 The appointment of the chief executive shall require the approval of the Council of Governors.

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

28. **Board of Directors – disqualification**

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

28.1.1 a person who has been adjudged bankrupt or whose

estate has been sequestrated and (in either case) has not been discharged.

- 28.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it.
- 28.1.3 a person who within the preceding five years has been convicted in the United Kingdom of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them.
- 28.1.4 a person who is currently subject to a moratorium period under a debt relief order (under Part 7a of the Insolvency Act 1986 as amended by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009).
- 28.1.5 a person who has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.
- 28.1.6 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.
- 28.1.7 a person who is a member of the Council of Governors of the trust. This provision does not preclude the trust chair from presiding at meetings of the Council of Governors.
- 28.1.8 a person who is a director, governor, non-executive director, chair, chief executive or other executive director of an organisation the nature of whose business is to give rise to potential conflicts of interest of a personal or prejudicial nature to such a

degree as to prevent the person from the proper exercise of their duties as a member of the Board of Directors of this trust.

- 28.1.9 a person who has been disqualified or suspended from any healthcare profession, and has not subsequently had their qualification re-instated or suspension lifted (as applicable).
- 28.1.10 a person who fails to or indicates that they are unwilling to act in the best interests of the trust in accordance with the values of the trust and The Seven Principles of Public Life laid out by the Committee on Standards in Public Life.
- 28.1.11 a person who is the subject of a Sex Offender Order or who within the last five years has committed a serious incident of violence or abuse at any of the Trust's hospitals or facilities or against any of the Trust's employees or registered volunteers or patients.
- 28.1.12 a person who fails to complete a Disclosure and Barring Service (DBS) check application within 28 days of accepting office or being appointed by a nominating organisation. In the event of the check identifying serious previous convictions or other significant information not covered by 28.1.3 or 28.1.11, the final decision regarding the suitability of the individual will rest with the Trust chair in consultation with the chief executive as appropriate. If the issue relates to the chair, the suitability shall be determined by the senior independent director in consultation with the chief executive.

## 29. **Board of Directors – meetings**

- 29.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for consideration of confidential business by resolution of the Board of Directors.

30. **Board of Directors – standing orders**

30.1 The standing orders for the practice and procedure of the Board of Directors are attached at Annex 8.

31. **Board of Directors - conflicts of interest of directors**

31.1 Directors have a duty to declare interests in line with the prevailing regulations and conditions.

32. **Board of Directors – remuneration and terms of office**

32.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the chair and the other non-executive directors. The Council of Governors may not delegate these decision making functions to a committee.

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

33. **Registers**

33.1 The trust shall have:

- 33.1.1 a register of members showing, in respect of each member, the constituency to which he/she belongs.
- 33.1.2 a register of members of the Council of Governors.
- 33.1.3 a register of interests of governors.
- 33.1.4 a register of directors.
- 33.1.5 a register of interests of directors.

34. **Registers – inspection and copies**

34.1 The trust shall make the registers specified in paragraph 33 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

34.2 The trust shall not make any part of its registers available for inspection by members of the public which shows details of:

- 34.2.1 any member of the Patients' or Staff Constituency; or
- 34.2.2 any other member of the trust, if he/she so requests.

35. **Documents available for public inspection**

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

- 35.1.1 a copy of the current constitution,
- 35.1.2 a copy of the latest annual accounts and of any report of the auditor on them, and
- 35.1.3 a copy of the latest annual report.

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

- 35.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L(trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act.
- 35.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.
- 35.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.
- 35.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act.
- 35.2.5 a copy of any statement provided under section 65F(administrator's draft report) of the 2006 Act.

- 35.2.6 a copy of any notice published under section 65F(administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA(Monitor's decision), 65KB (Secretary of State's response to Monitor's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.
  - 35.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.
  - 35.2.8 a copy of any final report published under section 65I (administrator's final report),
  - 35.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.
  - 35.2.10 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.
- 35.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.
- 35.4 If the person requesting a copy or extract is not a member of the trust, the trust may impose a reasonable charge for doing so.

**36. Internal and External Auditors**

- 36.1 The trust shall have an internal and external auditor.
- 36.2 The Board of Directors shall appoint or remove the internal auditor.
- 36.3 The Council of Governors shall appoint or remove the external auditor at a general meeting of the Council of Governors.

37. **Audit Committee**

37.1 The trust shall establish a committee of non-executive directors as an Audit Committee to perform such monitoring, review and other functions as are appropriate. One of the non-executive director members of the Audit Committee must satisfy the UK Corporate Governance code requirement of having relevant and recent financial experience. This shall normally be the chair of the committee.

38. **Accounts**

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

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

38.3 The accounts are to be audited by the trust's external auditor.

38.4 The trust shall prepare in respect of each financial year annual accounts in such form as NHS England and Improvement may with the approval of the Secretary of State direct.

38.5 The functions of the trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

39. **Annual plan, forward plans and non-NHS work**

39.1 The trust shall prepare an Annual Plan and send it to NHS England and Improvement.

39.2 The trust shall give information as to its forward planning in respect of each financial year to NHS England and Improvement.

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

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

- 39.5 Each forward plan must include information about:
- 39.5.1 the activities other than the provision of goods and services for the purposes of the health service in England that the trust proposes to carry on, and
  - 39.5.2 the income it expects to receive from doing so.
- 39.6 Where a forward plan contains a proposal that the trust carry on an activity of a kind mentioned in sub-paragraph 39.1, the Council of Governors must:
- 39.6.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfillment by the trust of its principal purpose or the performance of its other functions, and
  - 39.6.2 notify the directors of the trust of its determination.
- 39.7 A trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the council of governors of the trust voting approve its implementation.

40. **Presentation of the annual accounts and reports to the governors and members**

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

- 40.1.1 the annual report and accounts.
- 40.1.2 any report of the auditor on them.

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

40.3 The Trust may combine a meeting of the Council of Governors

convened for the purposes of sub-paragraph 40.1 with the Annual Meeting.

**41. Instruments**

41.1 The trust shall have a seal.

41.2 Subject to the provisions of the standing orders of the Board of Directors, Executive Directors shall have general authority to exercise the use of the trust seal.

**42. Amendment of the constitution**

42.1 Subject to 42.5 and 42.6, the trust may make amendments to its constitution only if:

42.1.1 more than half of the members of the Council of Governors of the trust voting approve the amendments, and

42.1.2 more than half of the members of the Board of Directors of the trust voting approve the amendments.

42.2 Amendments made under paragraph 42.1 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.

42.3 Where an amendment is made to the constitution in relation 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):

42.3.1 at least one member of the Council of Governors must attend the next Annual Meeting and present the amendment, and

42.3.2 the trust must give the members an opportunity to vote on whether they approve the amendment.

If more than half of the members present at the meeting vote to 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.

42.4 Amendments by the trust of its constitution are to be notified to NHS England and Improvement. For the avoidance of doubt, the functions of NHS England and Improvement 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.

42.5 Annexes 6, 7 and 9 to the constitution may be amended subject to more than half of the members of the Council of Governors of the trust voting to approve the amendments. Subject to approval of the Council of Governors, changes to these annexes shall have the same effect as amending the constitution.

42.6 Annex 8 to the constitution may be amended subject to more than half of the members of the voting members of the Board of Directors voting to approve the amendments. Subject to approval of the Board of Directors changes to these annexes shall have the same effect as amending the constitution.

43. **Mergers, etc. and significant transactions**

43.1 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.

43.2 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.

43.3 "Significant transaction" means an acquisition or disposal of (i) a business, the income from which in the last financial year was equal to or in excess of 25% of the total turnover of the Trust in that financial year; or (ii) an asset or assets, the value of which is equal to or in excess of 25% of the value of the Trust's gross assets at the date of its last audited accounts.

## **ANNEX 1: THE PUBLIC CONSTITUENCY OF THE TRUST**

(Paragraphs 7.1 and 7.3)

The minimum number of members in the Public Constituency shall be 100.

The area of the trust at the date of adoption of this constitution comprises the local government electoral wards set out below:

**Cambridge City Council** as defined by the Cambridge (Electoral Changes) Order 2019  
(All Wards)

**South Cambridgeshire District Council** as defined by the South Cambridgeshire (Electoral Changes) Order 2017 as amended  
(All Wards)

**East Cambridgeshire District Council** as defined by the East Cambridgeshire (Electoral Changes) Order 2016  
(All Wards)

**Uttlesford District Council** as defined by the Uttlesford (Electoral Changes) Order 2014  
(Selected Wards only)  
Ashdon  
Clavering  
Debden and Wimbish  
Littlebury, Chesterford and Wenden Lofts  
Newport  
Saffron Walden Audley  
Saffron Walden Castle  
Saffron Walden Shire  
The Sampfords  
Takeley  
Thaxted and the Eastons

**East Hertfordshire District Council** as defined by the East Hertfordshire (Electoral Changes) Order 2023  
(Selected Wards only)  
Braughing & Standon  
Buntingford  
Little Hadham & The Pelhams  
The Mundens

**North Hertfordshire District Council** as defined by The District of North Hertfordshire (Electoral Changes) Order 2006  
(Selected Wards only)

Ermine

Royston Palace

Royston Meridian

Royston Heath

**West Suffolk Council** as defined by the The West Suffolk (Electoral Changes) Order 2018  
(Selected Wards only)

Exning

Newmarket East

Newmarket North

Newmarket West

Clare, Hundon and Kedlington

All Haverhill Wards (West, North, East, South, Central and South East)

Withersfield

**Braintree District Council** as defined by Braintree (Electoral Changes) Order 2014 (One Ward only)

Bumpstead

## **ANNEX 2: THE STAFF CONSTITUENCY**

(Paragraphs 8.4 and 8.5)

There shall be a single Staff Constituency. The minimum number of staff members is 50.

## **ANNEX 3: THE PATIENTS' CONSTITUENCY**

(Paragraphs 10.4 and 10.6)

There shall be a single patient constituency. The minimum number of patient's members is 50.

## **ANNEX 4: COMPOSITION OF COUNCIL OF GOVERNORS**

(Paragraphs 14.2 and 14.3)

### **Elected governors**

Patient Governors	Eight
Public Governors	Seven
Staff Governors	Four
<b>Total Elected</b>	<b>Nineteen</b>

### **Appointed governors**

Anglia Ruskin University	One
Cambridge City Council	One
Cambridgeshire County Council	One
Cambridgeshire and Peterborough Clinical Commissioning Group	One
Cambridgeshire and Peterborough NHS Foundation Trust	One
Royal Papworth Hospital NHS Foundation Trust	One
Representative of Campus research institutions from one of the nominating organisations *	One
Representative of the lead authority for Public Health [Cambridgeshire County Council]	One
University of Cambridge	Two
<b>Total Appointed</b>	<b>Ten</b>

\* For the purposes of the representative of Campus Research institutions, the nominating organisations shall be:

- British Heart Foundation
- Cancer Research UK
- Wellcome Trust
- Medical Research Council

## **ANNEX 5: THE MODEL ELECTION RULES**

### **PART 1: INTERPRETATION**

1. Interpretation

### **PART 2: TIMETABLE FOR ELECTION**

2. Timetable
3. Computation of time

### **PART 3: RETURNING OFFICER**

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

### **PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS**

8. Notice of election
9. Nomination of candidates
10. Candidate's particulars
11. Declaration of interests
12. Declaration of eligibility
13. Signature of candidate
14. Decisions as to validity of nomination forms
15. Publication of statement of nominated candidates
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### **PART 5: CONTESTED ELECTIONS**

19. Poll to be taken by ballot
20. The ballot paper
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#### *Action to be taken before the poll*

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### *The poll*

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28. Voting by persons who require assistance
29. Spoilt ballot papers and spoilt text message votes
30. Lost voting information
31. Issue of replacement voting information
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33. Procedure for remote voting by internet
34. Procedure for remote voting by telephone
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### *Procedure for receipt of envelopes, internet votes, telephone vote and text message votes*

36. Receipt of voting documents
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### **PART 6: COUNTING THE VOTES**

41. Arrangements for counting of the votes
42. The count
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### **PART 7: FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS**

45. Declaration of result for contested elections
46. Declaration of result for uncontested elections

### **PART 8: DISPOSAL OF DOCUMENTS**

47. Sealing up of documents relating to the poll
48. Delivery of documents
49. Forwarding of documents received after close of the poll
50. Retention and public inspection of documents
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### **PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION**

52. Countermand or abandonment of poll on death of candidate

## **PART 10: ELECTION EXPENSES AND PUBLICITY**

### *Expenses*

53. Election expenses  
54. Expenses and payments by candidates  
55. Expenses incurred by other persons

### *Publicity*

56. Publicity about election by the corporation  
57. Information about candidates for inclusion with voting information  
58. Meaning of “for the purposes of an election”

## **PART 11: QUESTIONING ELECTIONS AND IRREGULARITIES**

59. Application to question an election

## **PART 12: MISCELLANEOUS**

- 60. Secrecy
- 61. Prohibition of disclosure of vote
- 62. Disqualification
- 63. Delay in postal service through industrial action or unforeseen event

**1. Interpretation**

1.1 In these rules, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

“*Monitor*” means the corporate body known as Monitor as provided by section 61 of the 2012 Act [these functions are currently discharged by NHS England and Improvement but

for consistency term Monitor is used throughout the electoral rules];

*“numerical voting code”* has the meaning set out in rule 57.2(b)

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

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

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

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

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

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

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

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

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

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

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

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

## PART 2: TIMETABLE FOR ELECTIONS

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### 2. Timetable

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

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

### 3. Computation of time

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

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

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

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

## **PART 3: RETURNING OFFICER**

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### **4. Returning Officer**

4.1 Subject to rule 62, 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 62, 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 COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

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### 8. Notice of election

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

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

### 9. Nomination of candidates

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

9.2 The returning officer:

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

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

**10. Candidate's particulars**

10.1 The nomination form must state the candidate's:

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

**11. Declaration of interests**

11.1 The nomination form must state:

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

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

Failure to make a declaration by the nomination deadline in respect of 11.1 (a) and/or (b) will result in the nomination being declared invalid.

In the event of a failure to declare an interest in respect of 11.1 (a) and/or (b) becoming apparent following the close of nominations, the Returning Officer on the instruction of the Trust Chair is authorised to disqualify candidates from the election process.

**12. Declaration of eligibility**

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

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

**13. Signature of candidate**

13.1 The nomination form must be signed and dated by the

candidate, in a manner prescribed by the returning officer, indicating that:

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

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

#### **14. Decisions as to the validity of nomination**

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

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

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

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

14.3 The returning officer is to examine each nomination form as soon as is practicable after he or she has received it, and

decide whether the candidate has been validly nominated.

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

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

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

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

15.2 The statement must show:

- (a) the name and constituency of each candidate standing, and
- (b) the declared interests of each candidate standing,

as given in their nomination form.

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

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

## **16. Inspection of statement of nominated candidates and nomination forms**

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

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

free of charge.

**17. Withdrawal of candidates**

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

**18. Method of election**

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

18.2 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the council of governors, those candidates are to be declared elected in accordance with Part 7 of these rules. In the event of an uncontested election, with more than more than one term of office to allocation, the returning officer shall conduct a draw to allocate the available terms.

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 remaining vacancies shall be managed in the same way as vacancies which may arise at other times and Section 14.3 on the constitution will apply.

## PART 5: CONTESTED ELECTIONS

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### **19. Poll to be taken by ballot**

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

- (i) configured in accordance with these rules; and
- (ii) will create an accurate text voting record in respect of any voter who casts his or her vote using the text message voting system.

**20. The ballot paper**

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

20.2 Every ballot paper must specify:

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

20.3 Each ballot paper must have a unique identifier.

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

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

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

- (a) that the voter is the person:

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

("declaration of identity")

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

- 21.2 The voter must be required to return his or her declaration of identity with his or her ballot.
- 21.3 The voting information shall caution the voter that if the declaration of identity is not duly returned or is returned without having been made correctly, any vote cast by the voter may be declared invalid.

*Action to be taken before the poll*

**22. List of eligible voters**

- 22.1 The corporation is to provide the returning officer with a list of the members of the constituency for which the election is being held who are eligible to vote by virtue of rule 27 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.
- 22.2 The list is to include, for each member:
  - (a) a postal address; and,
  - (b) the member's e-mail address, if this has been provided

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

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

## **23. Notice of poll**

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

- (a) the name of the corporation,
- (b) the constituency for which the election is being held,
- (c) the number of members of the council of governors to be elected from that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the methods of polling by which votes may be cast at the election by voters in a constituency, as determined by the corporation in accordance with rule 19.3,
- (g) the address for return of the ballot papers,
- (h) the uniform resource locator (url) where, if internet voting is a method of polling, the polling website is located;
- (i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located,
- (j) the telephone number or telephone short code where, if text message voting is a method of polling, the text message voting facility is located,
- (k) the date and time of the close of the poll,
- (l) the address and final dates for applications for replacement voting information, and
- (m) the contact details of the returning officer.

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

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

- (a) a ballot paper and ballot paper envelope,

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

("postal voting information").

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

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

("e-voting information").

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

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

for the purposes of the poll.

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

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

eligible voters.

## **25. Ballot paper envelope and covering envelope**

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

25.2 The covering envelope is to have:

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

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

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

## **26. E-voting systems**

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

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

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

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

- (a) require a voter to:
  - (i) enter his or her voter ID number; and

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

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

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

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

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

- (a) require a voter to:
  - (i) provide his or her voter ID number; and
  - (ii) where the election is for a public or patient constituency, make a declaration of identity;
 in order to be able to cast his or her vote;
- (b) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("text voting record") that is stored in the

text messaging voting system in respect of each vote cast by a voter by text message that comprises of:

- (i) the voter's voter ID number;
  - (ii) the voter's declaration of identity (where required);
  - (ii) the candidate or candidates for whom the voter has voted; and
  - (iii) the date and time of the voter's vote
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (f) prevent any voter from voting after the close of poll.

*The poll*

**27. Eligibility to vote**

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

**28. Voting by persons who require assistance**

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

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

**29. Spoilt ballot papers and spoilt text message votes**

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

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

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

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

- (b) has ensured that the completed ID declaration form, if required, has not been returned.
- 29.4 After issuing a replacement ballot paper for a spoiled ballot paper, the returning officer shall enter in a list (“the list of spoiled ballot papers”):
  - (a) the name of the voter, and
  - (b) the details of the unique identifier of the spoiled ballot paper (if that officer was able to obtain it), and
  - (c) the details of the unique identifier of the replacement ballot paper.
- 29.5 If a voter has dealt with his or her text message vote in such a manner that it cannot be accepted as a vote (referred to as a “spoiled text message vote”), that voter may apply to the returning officer for a replacement voter ID number.
- 29.6 On receiving an application, the returning officer is to obtain the details of the voter ID number on the spoiled text message vote, if he or she can obtain it.
- 29.7 The returning officer may not issue a replacement voter ID number in respect of a spoiled text message vote unless he or she is satisfied as to the voter’s identity.
- 29.8 After issuing a replacement voter ID number in respect of a spoiled text message vote, the returning officer shall enter in a list (“the list of spoiled text message votes”):
  - (a) the name of the voter, and
  - (b) the details of the voter ID number on the spoiled text message vote (if that officer was able to obtain it), and
  - (c) the details of the replacement voter ID number issued to the voter.
- 30. Lost voting information**
- 30.1 Where a voter has not received his or her voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.
- 30.2 The returning officer may not issue replacement voting information in respect of lost voting information unless he or

she:

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

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

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

### **31. Issue of replacement voting information**

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

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

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

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

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

*Polling by internet, telephone or text*

**33. Procedure for remote voting by internet**

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

**34. Voting procedure for remote voting by telephone**

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

**35. Voting procedure for remote voting by text message**

- 35.1 To cast his or her vote by text message the voter will need to

gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.

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

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

### **36. Receipt of voting documents**

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

### **37. Validity of votes**

- 37.1 A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.
- 37.2 Where the returning officer is satisfied that rule 37.1 has been fulfilled, he or she is to:
- (a) put the ID declaration form if required in a separate

packet, and

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

37.3 Where the returning officer is not satisfied that rule 37.1 has been fulfilled, he or she is to:

(a) mark the ballot paper “disqualified”,

(b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,

(c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and

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

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

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

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

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,

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

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

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

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

(a) mark the ID declaration form “disqualified”,

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

**39. De-duplication of votes**

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

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

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

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

- (a) mark the ballot paper “disqualified”,
- (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
- (c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;
- (d) place the document or documents in a separate packet; and
- (e) disregard the ballot paper when counting the votes in accordance with these rules.

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

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

or text voting record (as applicable) in a separate packet,  
and

- (d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

#### **40. Sealing of packets**

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

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

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

## PART 6: COUNTING THE VOTES

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

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

### **42. The count**

- 42.1 The returning officer is to:
- (a) count and record the number of:
    - (iii) ballot papers that have been returned; and
    - (iv) the number of internet voting records, telephone voting records and/or text voting records that have been created, and
  - (b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 41.2(ii) where vote counting software is being used.
- 42.2 The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.

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

**43. Rejected ballot papers and rejected text voting records**

43.1 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 43.2 and 43.3, be rejected and not counted.

43.2 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.

43.3 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.

43.4 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 43.2 and 43.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

43.5 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.

43.6 Any text voting record:

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

shall, subject to rules 43.7 and 43.8, be rejected and not counted.

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

43.8 A text voting record on which a vote is marked:

- (a) otherwise than by means of a clear mark,
- (b) by more than one mark,

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

43.9 The returning officer is to:

- (a) endorse the word “rejected” on any text voting record which under this rule is not to be counted, and
- (b) in the case of a text voting record on which any vote is

counted under rules 43.7 and 43.8, endorse the words “rejected in part” on the text voting record and indicate which vote or votes have been counted.

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

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

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

**44. Equality of votes**

44.1 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**

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

45.1 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 for which the election is being held to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

45.2 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 43.5,
- (c) the number of rejected text voting records under each of the headings in rule 43.10,

available on request.

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

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

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

## PART 8: DISPOSAL OF DOCUMENTS

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### 47. Sealing up of documents relating to the poll

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

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

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

47.2 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 and the list of spoilt text message votes,
- (c) the list of lost ballot documents, and
- (d) the list of eligible voters,

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

47.3 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 to which the election relates.

**48. Delivery of documents**

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

**49. Forwarding of documents received after close of the poll**

49.1 Where:

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

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

**50. Retention and public inspection of documents**

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

50.2 With the exception of the documents listed in rule 51.1, 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.

50.3 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.

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

51.1 The corporation may not allow:

- (a) the inspection of, or the opening of any sealed packet containing –
  - (i) any rejected ballot papers, including ballot papers rejected in part,
  - (ii) any rejected text voting records, including text voting records rejected in part,
  - (iii) any disqualified documents, or the list of disqualified documents,
  - (iv) any counted ballot papers, internet voting records, telephone voting records or text voting records, or
  - (v) the list of eligible voters, or
- (b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage,

by any person without the consent of the board of directors of the corporation.

51.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 51.1, and the board of directors of the corporation may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

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

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

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

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

- (a) in giving its consent, and

(b) in making the documents available for inspection

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

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

## PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

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### 52. Countermand or abandonment of poll on death of candidate

52.1 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, 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.

52.2 Where a new election is ordered under rule 52.1, 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.

52.3 Where a poll is abandoned under rule 51.1(a), rules 51.4 to 51.7 are to apply.

52.4 The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 38 and 39, and is to make up separate sealed packets in accordance with rule 40.

52.5 The returning officer is to:

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

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

52.6 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 to which the election relates.

52.7 Once the documents relating to the poll have been sealed up and endorsed pursuant to rules 52.4 to 52.6, the returning officer is to deliver them to the chairman of the corporation, and rules 50 and 51 are to apply.

## **PART 10: ELECTION EXPENSES AND PUBLICITY**

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### *Election expenses*

#### **53. Election expenses**

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

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

54.1 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.

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

55.1 No person may:

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

55.2 Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 56 and 57.

### *Publicity*

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

- 56.1 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.
- 56.2 Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 57, must be:
- (a) objective, balanced and fair,
  - (b) equivalent in size and content for all candidates,
  - (c) compiled and distributed in consultation with all of the candidates standing for election, and
  - (d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.
- 56.3 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.

**57. Information about candidates for inclusion with voting information**

- 57.1 The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 24 of these rules.
- 57.2 The information must consist of:
- (a) a statement submitted by the candidate of no more than 250 words,
  - (b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility

(“numerical voting code”), and

**58. Meaning of “for the purposes of an election”**

58.1 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.

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

## **PART 11: QUESTIONING ELECTIONS AND THE CONSEQUENCE OF IRREGULARITIES**

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- 59. Application to question an election**
- 59.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to the Trust within 28 days of the results being announced.
- 59.2 A complaint regarding the conduct of the election process will only be considered during the election process or within 28 days of the result being announced.
- 59.4 The complaint must describe the alleged breach of the rules or electoral irregularity.
- 59.5 If the Trust requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- 59.7 The Trust may at its discretion seek independent arbitration or advice.
- 59.8 The decision of the Trust shall be taken by the Trust Chair following receipt of appropriate advice and shall be binding, and there shall be no further internal right of appeal.

**60. Secrecy**

60.1 The following persons:

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

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

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

60.2 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.

60.3 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.

**61. Prohibition of disclosure of vote**

61.1 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.

**62. Disqualification**

62.1 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.

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

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

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

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

## **ANNEX 6: CODE OF CONDUCT FOR GOVERNORS AND MEMBERS**

### **Key Messages**

- Governors and members, which includes candidates entering into the election process should maintain the highest standards of personal conduct when acting for the Trust and representing themselves to external organisations, Trust members or the public.
- Governors and members must always declare any relevant conflicts of interest.
- Governors and members must treat their fellow governors, members of the public and officers of the Trust with respect.
- Information of a confidential nature should not be discussed with or disclosed to anybody who should not know about it.
- Governors and members should always abide by the standards of public life that are expected of holders of public office, e.g. The Nolan Principles.
- This Code applies to elected governors, partner governors, advisors to the Council of Governors, governor candidates in the run-up to an election and members of the Trust in general when representing the Trust.

### **1. Introduction**

The NHS Act 2012 sets out the powers of and obligations upon, governors of NHS Foundation Trusts, details of which form part of the NHS FT's Constitution. If Governors operate outside the powers assigned to them or fail to adhere to the obligations of public office, the NHS Act gives the Foundation Trust the power, through its Constitution, to remove them from Office.

This code sets out the appropriate conduct for governors, and addresses both the requirements of office and personal behaviour.

This document is a guide not only for existing governors, but also for those members considering standing for election as governors.. Governors should comply with the Trust Principles (as set out in the Constitution), this Code of Conduct, the requirements of the Regulatory Framework, including the Constitution, and any guidance and directions issued by NHS England and Improvement and Care Quality Commission.

Members seeking election to the Council of Governors will be required to sign a declaration to confirm that they will comply with the Code in all respects and that, in particular, they support the

Trust's Principles (as set out in the Constitution) and its purpose, vision, key objectives and values. On election/ appointment new Governors will be expected to submit an application for a disclosure certificate from the disclosure and barring service within 28 days of accepting office.

Governors and members are expected to adhere at all times to the code of conduct as set out in this document and other documents issued by the Trust. When Governors and members are representing the Foundation Trust on an associated body, joint board, committee or other forum outside the Foundation Trust, they must abide by their codes of conduct, where applicable, as well as this code, with this code taking precedence where there is conflict.

## **2. Governors' Responsibilities**

### **a) The Role of Governor**

A detailed description of the roles and responsibilities of governors is contained within the Constitution

Governors are expected to devote a substantial amount of time to NHS Foundation Trust work. They are expected to attend at least the Council of Governors' meetings and also be prepared to attend some other events and sub-committees based on their areas of interest.

A major part of their role involves communicating with the group of people who elected them, or, in the case of partner Governors, the stakeholder organisation(s) that they represent. As a member or stakeholder representative dealing with difficult and confidential issues, Governors are required to act with discretion and care in the performance of their role. Governors are required to maintain confidentiality at all times with regard to confidential, personal or sensitive information gained via their involvement in the hospital. The policy for communication with members and the public is appended to this policy.

### **b) Qualifications for Office**

Governors must continue to comply with the qualifications required to hold elected or appointed office throughout their period of tenure. The Director of Corporate Affairs should be advised of any changes in circumstances which disqualify the Governor from continuing in office, at the earliest opportunity. The circumstances under which a Governor may not become or continue as a member of the Council of Governors are set out in the Constitution. For elected Governors, the qualifications for Office include being a member of

the constituency which they represent. For partner Governors, qualification includes the sponsorship of the organisation(s) they represent.

There are three categories of conditions for qualification laid down in the Foundation Trust's Constitution:

1. Conditions which are a requirement of the NHS Act. These include continuing to be able to represent their constituency or sponsoring organisation and not being prevented from being a governor due to, among other things, an undischarged bankruptcy or a criminal conviction within the last five years resulting in a sentence of imprisonment for a period of three months or more.
2. Conditions imposed by this Trust in the Constitution. These include, among other things, dismissals for reasons other than redundancy from any paid employment with a health service body during the preceding two years, certain conflicts of interest which are incompatible with the role of Governor of the Trust, being subject of a Sex Offender order or having initiated a serious act of violence against the Trust's staff.
3. Conditions relating to abiding by values and behaviours expected of Governors by the Foundation Trust. These include abiding by the Trust values and principles, and by expected standards of conduct, such as those laid out by the Committee on Standards in Public Life.

The conditions referred to in paragraph 3 above fall within the scope of this Code of Conduct and will be dealt with in accordance with the procedure established for dealing with non-compliance with the Code of Conduct.

### **3. Code of Conduct for Governors and members considering standing for election as governors**

#### **a) General Principles**

Governors should at all times:

1. uphold the principles of the Trust and support its objectives;
2. act in accordance with the Trust's values of kind, safe and excellent;
3. act in the best interests of the Trust and in accordance with the Constitution;

4. represent the interests and concerns of Members of the Trust, and the constituency which elected them, or in the case of partner Governors, the partnership organisation(s) they represent and abide by the standards of public life that are expected of holders of public office (the Nolan Principles – see Appendix 2);
5. contribute to the workings of the Council of Governors in order for it to fulfil its functions as defined in the Constitution and Terms of Authorisation;
6. recognise that they act as a collective Council of Governors and exercise collective decision making. Outside of formal meetings, the governor has no more privileges than any other member;
7. note that the roles and responsibilities of a governor in no way include an executive function;
8. act to safeguard confidentiality, particularly in terms of any information to which they may become privy in the course of their role as a governor;
9. Uphold the Trust's Single Equality Scheme and act to promote inclusion and to avoid less favourable treatment on the grounds of age, race, colour, disability, marital status, sexual orientation, gender reassignment or religious belief.
10. Comply with any regulations relevant to the role issued by (but not exclusively by) NHS England and Improvement; Care Quality Commission and Department of Health and Social Care.

**b) Conflict of interests**

Governors have a responsibility to ensure that they are not placed in a position which risks or appears to risk conflict between their other interests and their role as Governor.

Governors should:

1. act with the utmost integrity in the performance of their duties and ensure that any conflicts of interest are made known to the Trust Secretary as soon as they arise;
2. ensure that should a matter in which they have a material interest be put to the vote, they absent themselves from such a vote;

3. ensure that should a matter in which they have a material interest be discussed, they absent themselves from such a discussion;
4. be aware that failure to disclose an interest which they are required to declare may result in their removal from office as a consequence of a breach of this Code of conduct.

Full details of the declaration requirements are included in the Conflicts of Interest Policy for Cambridge University Hospitals NHS Foundation Trust (agreed by the Council of Governors on 26 April 2017 and Board of Directors on 10 May 2017). Guidance on declaration requirements can be sought from the Director of Corporate Affairs.

### **c) Conduct in meetings**

Governors should at all times:

1. be aware that they have a responsibility to attend Council of Governors' meetings. When this is not possible, apologies should be submitted to the Director of Corporate Affairs beforehand.
2. be aware that failure to attend three successive meetings of the Council of Governors without good reason and prior explanation as set out in the Constitution is grounds for dismissal from their post, unless the grounds for absence are deemed to be acceptable by the Council of Governors
3. be aware that they are expected to attend for the duration of the meeting
4. maintain good practice with respect to the conduct of meetings and respect the views of their fellow council members. Governors should not conduct private conversations when a meeting is taking place.
5. respect the integrity of the decision-making process in meetings of the Council of Governors and its committees and not undermine that process by their actions outside those meetings.
6. respect the confidentiality of matters discussed at closed meetings and not reveal details of information received, discussions, outcomes or individual voting decisions of those

present at those meetings without their permission and/or outside due process.

7. Comply with Standing Orders of the Council of Governors and draw the Director of Corporate Affairs' attention to any perceived breaches of the Standing Orders

**d) Personal Conduct**

Governors are expected to maintain the highest standards of personal conduct as holders of public office. In terms of their contact with others, they are required to;

1. at all times be mindful of conduct which could be deemed or thought to be unfair or discriminatory;
2. treat other Governors, members of the public, Directors (executive and non-executive) and other Trust employees with respect and in accordance with the Trust's Dignity at Work policy in relation to bullying and harassment.
3. not hinder or interfere with the proper conduct of Trust business;
4. not intimidate or attempt to intimidate any person who is or is likely to be involved in the administration of any investigation or proceedings in relation to an allegation that a governor has failed to comply with this code of conduct;
5. not compromise the impartiality of those who work for the Foundation Trust;
6. recognise that the Council of Governors, Board of Directors and management have a common purpose – the success of the Trust – and adopt a team approach;
7. conduct themselves in a manner which reflects positively on the Trust in all communications and remain aware at all times that they are representing their stakeholders and should not bring their role as Governor into disrepute;
8. not use their position as Governor for personal gain or to benefit their family or friends or to seek to advantage or further private business through holding the position of Governor. They should take particular care in using their title as Governor of the Foundation Trust in any correspondence (letter, email, memorandum, report etc.). The use of business

cards showing their title as Governor of the Foundation Trust is not allowed;

9. act appropriately in all engagement with the media and, where appropriate, act in accordance with the Trust's media handling policy.

10. when corresponding with the Trust by email, Governors should ensure that emails do not contain defamatory, inflammatory or abusive statements as such emails are unlikely to be read only by the recipient. An email must be produced if there is a requirement for it to be used in evidence in cases of litigation. Emails are also subject to disclosure under the Freedom of Information Act.

#### **e) Confidentiality**

Governors will receive confidential information during the conduct of their duties and will be expected to respect the confidentiality of that information. Governors are required not to disclose information given to them in confidence by anyone, or information acquired by them which they believe or ought reasonably to be aware, is of a confidential nature.

Matters discussed in closed meetings of the Council of Governors and any meetings relating to disciplinary or code of conduct matters must be assumed to be confidential and not discussed or disclosed to anyone outside the meeting.

#### **f) Accountability**

Governors should remember that they are accountable to the membership. Part of this accountability should be demonstrated by attending key events that provide the opportunity of face to face dialogue with the membership in order to gain an understanding of their views on Trust related issues and to convey information about the Trust to members. Governors have a responsibility to actively seek the views of their membership. Governors should remember that they are also accountable to NHS England and Improvement for their conduct.

### **4. Non-compliance with the Code of Conduct**

Governors should be aware that non-compliance with the code of conduct, any other action which may be detrimental to the Trust or breach of any other condition for qualification as stated in the

Constitution will be dealt with in accordance with the Trust's Governor Disciplinary procedure.

## 5. Disputes

The Director of Corporate Affairs shall be the final arbiter in any dispute concerning the interpretation of or arising out of these procedures. The Secretary shall enforce any Code of Conduct approved by the Council of Governors.

## 6. Validity of procedures

The procedures set out in this document are made in accordance with the Constitution. They shall only be altered on a recommendation of the Council of Governors and with the approval of the Trust's Board of Directors. Changes to these procedures shall not be recommended that would make them inconsistent with the Constitution or the Act. Where there is any inconsistency between these policies and the Constitution, the Constitution shall prevail.

## Appendix 1

### The Nolan Principles

Governors should at all times remember that they are holders of a public office, and are therefore expected to adhere to the Nolan Principles – taken from the Nolan Committee's first report on standards in public life.

The Nolan principles, as they apply to governors of Foundation Trusts, are listed below:

**Selflessness:** Governors should take decisions solely in terms of the public interest. They should not do so to gain financial or material benefit for themselves, their family or their friends

**Integrity:** Governors should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, governors should make choice on merit

**Accountability:** Governors are accountable for their decisions and actions to the stakeholders they represent and must submit themselves to whatever scrutiny is appropriate to their office

**Openness:** Governors should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

**Honesty:** Governors have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

**Leadership:** Governors should promote and support these principles by leadership and example

In addition, we expect our Governors to adhere to the following principles of good governance, which are consistent with the Nolan principles and represent the standards of public life expected of elected members of local authorities (Source: The Relevant Authorities (General Principles) Order 2001)

**Personal Judgement:** Governors may take account of the views of others, including the stakeholders they represent, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for Others:** Governors should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Foundation Trust's directors, employees and volunteers.

**Duty to uphold the law:** Governors should uphold the law, and on all occasions, act in accordance with the trust that the public and the stakeholders they represent are entitled to place in them.

**Stewardship:** Governors should do whatever they are able to do to ensure that the Foundation Trust operates in a way that fits with its statement of purpose and complies with its NHS Provider License and in accordance with the law.

## Appendix 2

### Guidance for Governors in dealing with the media

The Trust has strict rules for staff in relation to engaging with the press and media - all proactive and reactive contact with the media is co-ordinated through the Trust's press office. In this way there is consistency and accuracy of message, the good reputation of the Trust is maintained and enhanced, and the maximum benefit is gained from the encounter.

Governors, as member representatives, are not constrained in the same way as staff and are not obliged to seek permission to speak to the press. However, it needs to be recognised that media relations have the potential to harm the Trust and this could be an area in which Governors might fail in their responsibilities to the Trust.

The Trust would strongly recommend that Governors seek guidance from the Press Office – via the Membership Office - before speaking to the media.

### **Annex 3 - Policy for governor communication with members/the public**

#### **1 Policy statement**

1.1 Governors of Cambridge University Hospitals NHS Foundation Trust are likely, in the course of their duties to be asked questions by Foundation Trust members, patients or members of the public and/or receive correspondence from individuals and may be required to respond in their capacity as governors.

1.2 The Trust should provide a clear policy regarding the management of such communications in order to ensure a professional and efficient service to those individuals making contact with governors and to protect the privacy and personal contact details of governors.

#### **2 Key principles and objectives**

2.1 To protect the privacy and personal contact details of governors by ensuring that communications relating to governor business is centrally managed via the Foundation Trust Membership Office.

2.2 To protect the Trust from possible breaches of the Data Protection Act or other relevant legislation and possible serious consequences as a result.

2.3 To ensure that people contributing their views/asking questions via governors receive a professional and efficient reply.

2.4 To ensure that where appropriate, those asking questions/making comments are signposted to the appropriate offices/departments in order to ensure a joined up approach to issues and avoid duplication of effort.

2.5 To ensure that governors are protected from potential consequences of entering into correspondence with individuals with whom the Trust

may already be corresponding as part of a legal or other formal process.

### **3 Scope of policy**

This policy applies to all governors of Cambridge University Hospitals NHS Foundation Trust as well as the Foundation Trust membership Office and extends to any other officer of the Trust who receives mail intended for a governor(s).

### **4 E-mail communication**

- 4.1 E-mails addressed to a governor or governors and received by the Foundation Trust Membership Office at any of the e-mail addresses owned by that office, will be opened by Foundation Trust Office staff.
- 4.2 Foundation Trust Office staff will then decide how best to make the governor(s) aware of the communication with due consideration of the Data Protection Act and other such restrictions, which often mean such e-mails cannot be forwarded directly to the governor(s).
- 4.3 If any such e-mails do not contain details which could potentially lead to the identification of the sender, it may be possible for personal details to be removed and the e-mails forwarded directly to the relevant governor(s).
- 4.4 In most cases, governors will be alerted by telephone of the existence of the communication or in general anonymised terms by e-mail and further details then provided by telephone.

### **5 Written communication**

- 5.1 Governors will be alerted to letters addressed to them (whether marked Private and Confidential or not) and received by the Foundation Trust Office. The governor may then either ask a member of Foundation Trust Office staff to open the envelope and read the letter over the telephone or may choose to come in and open it in the Foundation Trust Office. In most cases, governors will be informed of details by telephone
- 5.2 Due consideration will be given to the Data Protection Act and other such restrictions, which often mean such communications cannot be forwarded directly to the governor(s).

- 5.3 It may be possible for personal details to be removed and copies of the letter(s) forwarded directly to the relevant governor(s) if this is deemed appropriate.
- 5.4 If a governor receives a communication directly to their home or place of work, by post, e-mail or other means they must be mindful of confidentiality and the need to adhere to the Data Protection Act.
- 5.5 The Trust recognises that governors have the right to treat correspondence addressed to them as private, however governors are requested to inform the Foundation Trust Office of the contents of the communication, particularly if it relates to patient information, including but not limited to names and addresses, or if a reply is required. If the governor chooses not to do so, they place themselves and the Trust at risk by replying to an individual who may already be involved in another route of correspondence with the Trust which may possibly include legal implications for the Trust or the governor or by any potential loss of the information.
- 5.6 Governors should be mindful of their obligations under the Code of Conduct for Governors including the obligation not to bring the Trust into disrepute. This would include a potential breach of the Data Protection Act.
- 5.7 There are facilities within the Foundation Trust Office where correspondence can be stored securely in accordance with the Data Protection Act. If governors store correspondence at home they are requested to do so within a locked drawer or bag/brief case. Correspondence may be transferred to the Trust using a locked bag or brief case for disposal/storage by the Foundation Trust Office. Governors may dispose of information at home, either by burning it, or with the use of a cross shredder. (Only cross shredders are appropriate for disposal of information).
- 5.8 The Foundation Trust Office will log receipt of all communications to governors. If governors choose not to store communications sent to them within the Foundation Trust Office they will be asked to sign a declaration stating that they will store and transport the correspondence securely in accordance with the Data Protection Act.

## **6 Telephone communication**

- 6.1 Governors are not present in the Trust on a continual basis and telephonic communication is therefore difficult and not encouraged. Should any individual telephone the Foundation Trust Office asking to speak with a governor, the Foundation Trust Office will explain that governors are not present in the office on a full-time basis and will

suggest another means of communication.

## **7 Replying to communications**

7.1 Where there is a need and it is appropriate for a governor(s) to reply to communications sent to them, a response will be agreed between the Foundation Trust Office and the governor(s) concerned, which fits with any relevant policies and procedures of the Trust, including but not exclusively complaints management policies and procedures.

7.2 Where a governor is asked questions by members, patients or the public and a written response is required, the Foundation Trust Office will research the answers and produce the response.

7.3 If, as is expected to be the norm, the response is to come from the Foundation Trust Office, it will reflect the fact that a governor(s) have asked the Foundation Trust Office to investigate the queries raised and to feed back to the originator and the governor concerned. The reply letter will be from the Foundation Trust Office and will cc relevant governor(s).

7.4 If a short response such as an acknowledgement is required, a letter may be prepared for a governor to sign.

## **ANNEX 7: STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE COUNCIL OF GOVERNORS**

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## **INTRODUCTION**

### **Regulatory Framework**

The Cambridge University Hospitals NHS Foundation Trust (the Corporation) is a statutory body which became a public benefit corporation on 1 July 2004 following its approval as an NHS Foundation Trust by the Independent Regulator of NHS Foundation Trusts (Independent Regulator).

The principal place of business of the Corporation is at Addenbrooke's Hospital, Hills Road, Cambridge, Cambridgeshire, CB2 0QQ.

NHS Foundation Trusts are governed by Act of Parliament, mainly the NHS 2006 Act (the 2006 Act) and Health Act 2012 (the 2012 Act), by their constitutions and by the provider licence granted by the Independent Regulator (the Regulatory Framework).

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

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

## **1. INTERPRETATION**

1.1 Save as otherwise permitted by law and subject to the Constitution, at any meeting the Director of Corporate Affairs shall be the final authority on the interpretation of Standing Orders, with a right of appeal to a committee of the Council of Governors convened for that purpose, whose decision shall be final and binding except in case of manifest error.

1.2 Any expression to which a meaning is given in the 2006 Act and 2012 Act or regulations made under them shall have the same meaning in this interpretation and in addition:

1.2.1 **"Council of Governors"** and (unless the context otherwise requires) **"Council"**, means the Council of Governors of the Corporation as constituted by the Constitution.

1.2.2 **"Board of Directors"** means the Chair, executive and Non-Executive directors of the Corporation collectively as a body.

1.2.3 **"Chair of the Board" or "Chair of the Corporation"** is the person appointed by the Council of Governors to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Corporation as a whole. The expression "the Chair of the Corporation" shall be deemed to include the Vice-Chair of the

Corporation if the Chair is absent from the meeting or is otherwise unavailable.

1.2.4 **"Chief Executive"** means the chief executive officer of the Corporation.

1.2.5 **"Committee"** means a committee of the Council of Governors.

1.2.6 **"Constitution"** means the constitution of the Corporation.

1.2.7 **"Committee members"** means the Chair and the governors formally appointed by the Council of Governors to sit on or to chair specific committees.

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

1.2.9 **"Member of the Council"** in relation to the Council of Governors means a governor of the Corporation. (Member of the Council in relation to the Council of Governors does not include the Chair.)

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

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

1.2.12 **"SOs"** means these Standing Orders.

1.2.13 **"Director of Corporate Affairs "** means a person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chair and monitor the Corporation's compliance with the Regulatory Framework and these Standing Orders.

1.2.14 **"Vice-Chair"** means a Non-Executive Director who may be appointed from amongst the Non-Executive Directors to take on the Chair's duties if the Chair is absent for any reason.

1.2.15 **"Lead Governor"** means the lead governor elected from amongst the Governors.

1.2.16 **"Spouse"** means a person's partner in marriage or civil partnership.

## **2. THE COUNCIL OF GOVERNORS**

2.1 The Council has resolved that certain powers and decisions may only be exercised by the Council in formal session. These powers and decisions are set out in the Matters Reserved to the Council of Governors and have effect as if incorporated into the Standing Orders.

2.2 **Composition of the Council** - The composition of the Council shall be defined in the constitution.

2.3 **Role of the Chair** - The Chair is not a member of the Council of Governors but is responsible for leadership of the Council of Governors. However under the Regulatory Framework, he/she presides at meetings of the Council of Governors and has a casting vote.

### 3. MEETINGS OF THE BOARD

3.1 **Admission of the Public** - The public shall be afforded facilities to attend all formal meetings of the Council of Governors except where the Council resolves:

(a) That members of the public be excluded from the remainder of a meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public; and/or

(b) That in the interests of public order the meeting adjourn for a period to be specified in such resolution to enable the Council to complete business without the presence of the public.

3.2 Members of the public may only record proceedings of the Council in strict accordance with the agreed policy of the Trust.

3.3 **Calling Meetings** - Ordinary meetings of the Council shall be held at such times and places as the Council may determine and there shall be no fewer than 3 meetings in any year.

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

3.5 **Notice of Meetings** - Agendas will be available to Members of the Council electronically and sent by post as required five working days (excluding Saturdays and Sundays) before the meeting. Supporting papers, whenever possible, shall accompany the agenda.

3.6 Failure to serve notice of the meeting on all members (unless excluded by virtue of conflict of interest) will invalidate the meeting.

- 3.7 In the case of a meeting called by Members of the Council in default of the Chair, the notice shall be signed by those Members of the Council and no business shall be transacted at the meeting other than that specified in the notice.
- 3.8 Before each meeting of the Council a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed on the Corporation's website at least three calendar days before the meeting.
- 3.9 **Setting the Agenda** - The Council may determine that certain matters shall appear on every agenda for a meeting and shall be addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders.)
- 3.10 A Member of the Council desiring a matter to be included on an agenda shall make his/her request in writing to the Chair at least 10 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chair.
- 3.11 **Petitions** - Where a petition has been received by the Corporation the Chair of the Council shall include the petition as an item for the agenda of the next Council meeting.
- 3.12 **Public Questions** – The Chair of the Board as Chair of the Council may permit questions, representations and statements to be made during meetings of the Council of Governors held in public at a time to be determined by the Chair.
- 3.13 **Chair of Meeting** - At any meeting of the Council, the Chair of the Council, if present, shall preside. If the Chair is absent from the meeting, the Vice Chair (if appointed) shall preside and have a casting vote. Otherwise, another non-executive director shall preside and have a casting vote.
- 3.14 Where the Chair, Vice-Chair and other non-executive directors are all absent or have a conflict of interest, the Lead Governor shall preside. In the event of the Lead Governor being absent, the Deputy Lead Governor shall preside. In the event the Deputy Lead Governor also being absent a representative appointed from amongst the governors attending that meeting of the Council shall preside at the meeting and shall have a casting vote.
- 3.15 **Notices of Motion** - A Member of the Council desiring to move or amend a motion shall send a written notice thereof at least 10 clear days before the meeting to the Chair, who shall insert in the agenda

for the meeting all notices so received subject to the notice being permissible under the appropriate regulations. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda.

3.16 **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.

3.17 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Member of the Council who gives it and also the signature of 4 other Council members. When any such motion has been disposed of by the Council, it shall not be competent for any member other than the Chair to propose a motion to the same effect within 6 months; however the Chair may do so if he/she considers it appropriate.

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

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

- an amendment to the motion.
- the adjournment of the discussion or the meeting.
- that the meeting proceed to the next business. (\*)
- the appointment of an ad hoc committee to deal with a specific item of business.
- that the motion be now put. (\*)
- A motion resolving to exclude the public under SO 3.1.

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

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

3.20 The mover of a motion shall have a maximum of five minutes to move and three minutes to reply. Once a motion has been moved, no Member shall speak more than once or for more than three minutes.

3.21 **Chair's Ruling** - Statements of Members of the Council made at meetings of the Council shall be relevant to the matter under

discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be final.

- 3.21 **Voting** – Unless otherwise specified by the Constitution, every question at a meeting shall be determined by a majority of the votes of the Chair of the meeting and Members of the Council present and voting on the question and, in the case of the number of votes for and against a motion being equal, the Chair of the meeting shall have a second or casting vote.
- 3.22 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Members of the Council present so request.
- 3.23 If at least one-third of the Members of the Council present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Member of the Council present voted or abstained.
- 3.24 If a Member of the Council so requests, his/her vote shall be recorded by name upon any vote (other than by paper ballot).
- 3.25 In no circumstances may an absent Member of the Council vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.26 **Minutes** - The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next meeting.
- 3.27 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.
- 3.28 **Suspension of Standing Orders** - Except where this would contravene any statutory provision or any direction made by the Independent Regulator, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Council are present, including one public governor and one patient governor, and that a majority of those present vote in favour of suspension.
- 3.29 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.30 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and Members of the Council.

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

3.32 **Variation and Amendment of Standing Orders** - These Standing Orders shall be amended only if:

- a notice of motion under Standing Order 3.15 has been given; and
- no fewer than half the total of the Corporation's Governors vote in favour of amendment; and
- at least two-thirds of the Council members are present; and
- the variation proposed does not contravene a statutory provision or direction made by the Independent Regulator.

3.33 **Record of Attendance** - The names of the Chair and Members of the Council present at the meeting shall be recorded in the minutes. The minutes shall also record the attendance of Non-Executive Directors, Executive Directors, or those formally deputising for them.

3.34 **Quorum** - No business shall be transacted at a meeting unless at least nine governors are present of which at least one is a public governor and at least one is a patient governor, save that if at any meeting there is no quorum present within 30 minutes of the time fixed for the start of the meeting, the meeting shall stand adjourned for 7 days and upon reconvening, those present shall constitute a quorum.

3.35 If a Member of the Council has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 6 or 7) 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.

#### **4. NO DELEGATION OF FUNCTIONS AND STATUS OF STANDING ORDERS**

4.1 **No Delegation of functions or powers to Committees** - The Council may not delegate its functions or powers to any committees, or sub-committees of the Council.

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

## 5. COMMITTEES

5.1 Subject to such directions and guidance as may be issued by the Independent Regulator, the Council may and, if directed by the Independent Regulator, shall appoint committees of the Council to assist the Council in the proper performance of its functions under the Constitution and the Regulatory Framework, consisting wholly of members of the Council of Governors and, where the committee has responsibility for nominating non-executive directors for appointment by the Council of Governors, the Chair.

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

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

5.4 Each such committee shall have such terms of reference and powers (subject to paragraph 4.1) and be subject to such conditions (as to reporting back to the Council), as the Council shall decide and shall be in accordance with the Regulatory Framework and any direction or guidance issued by the Independent Regulator. Such terms of reference shall have effect as if incorporated into the Standing Orders.

5.5 Where committees are authorised to establish sub-committees they may not assign executive powers to the sub-committee.

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

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

issued by the Independent Regulator the regulations and directions made by the Independent Regulator.

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

## **6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS**

- 6.1 **Declaration of Interests** - The Regulatory Framework requires Council Members to declare interests which are relevant and material to the Council of which they are a Member. All existing Council members should declare such interests. Any Council members appointed subsequently should do so on appointment.
- 6.2 Where a Council member has any interest in an item under discussion, or where such an interest might be perceived, it should be declared, and will be recorded in the minutes. Any changes in interests should be declared at the next Council meeting following the change occurring.
- 6.3 During the course of a Council meeting, if a conflict of interest is established, the Member of the Council may remain at the meeting with the permission of its members but should play no part in the relevant decision. In certain circumstances, the Chair may determine that it may be appropriate for them to withdraw from the meeting.
- 6.4 There is no general requirement for the interests of Council members' spouses or partners to be declared, however the interest of Members of the Council's spouses in contracts should be declared.
- 6.5 If Council members have any doubt about the relevance of an interest, this should be discussed with the Chair. The interests of partners in professional partnerships including general practitioners should also be considered.
- 6.6 **Register of Interests** - The Director of Corporate Affairs will ensure that a Register of Interests is established to record formally declarations of interests of Council members. In particular the Register will include details of all directorships and other relevant and material interests which have been declared by Council members.
- 6.7 These details will be kept up to date by means of a quarterly review of the Register in which any changes to interests declared during the preceding quarter will be incorporated.

- 6.8 The Register will be available to the public and the Chair will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.
- 6.9 In establishing, maintaining, updating and publicising the Register, the Corporation shall comply with all guidance issued from time to time by the Independent Regulator.
- 6.10 In relation to Declaration of Interests and Register of Interests, at all times consideration shall be given to the Trust's Standards of Business Conduct Policy, referred to in Section 8 and the Bribery Act 2010.

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

- 7.1 Subject to the following provisions of this Standing Order, if the Chair or another Member of the Council has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Corporation 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 shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- 7.2 The Council may exclude the Chair (or a Member of the Council) from a meeting of the Council while any contract, proposed contract or other matter in which he/she has a pecuniary interest, is under consideration.
- 7.3 Any remuneration, compensation or allowances payable to the Chair or a Member of the Board by virtue of paragraphs 11 and 18(1) of Schedule 7 to the 2006 Act shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- 7.4 For the purpose of this Standing Order the Chair or a Member of the Council shall be treated, subject to SO 7.5, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
- (a) he/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 married persons or unmarried partners living together the interest of one spouse or partner shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.

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

- (a) of his/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 connected as mentioned in SO 7.4 above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Member of the Council in the consideration or discussion of or in voting on, any question with respect to that contract or matter. Where there is any doubt as to the materiality of the interest, or the perception of such interest, the member should declare the interest.

7.6 Where the Chair or a Member of the Council has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he/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.

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

## **8. STANDARDS OF BUSINESS CONDUCT POLICY**

8.1 Governors should comply with the Governor's and Members' Code of Conduct, the Trust's Standards of Business Conduct, the requirements of the Regulatory Framework, including the Constitution, and any

guidance and directions issued by the Independent Regulator. At all times due consideration shall be given to the Bribery Act 2010.

8.2 **Interest of Governors in Contracts** - If it comes to the knowledge of a Governor that a contract in which he/she has any pecuniary interest not being a contract to which he is him/herself a party, has been, or is proposed to be, entered into by the Corporation he/she shall, at once, give notice in writing to the Director of Corporate Affairs 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.

8.3 A Governor should also declare to the Director of Corporate Affairs any other employment or business or other relationship of his/hers, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Corporation.

The Corporation, and the Regulatory Framework requires interests, employment or relationships declared, to be entered in a register of Governors' interests.

8.4 **Canvassing of, and Recommendations by, Members of the Board in Relation to Appointments** - Canvassing of Directors or Governors of the Corporation or of any Committee of the Corporation directly or indirectly for any appointment under the Corporation shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Orders shall be included in application forms or otherwise brought to the attention of candidates.

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

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

8.7 **Relatives of Members of the Council** - Candidates for any board appointment under the Corporation shall, when making application, disclose in writing to the Corporation whether they are related to any Member of the Council. Failure to disclose such a relationship may disqualify a candidate and, if appointed, may render him/her liable to instant dismissal.

8.8 The Chair and every Member of the Council shall disclose to the Chief Executive any relationship between him/herself and a candidate of

whose candidature that Member of the Council is aware. It shall be the duty of the Chief Executive to report to the Council any such disclosure made.

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

## **9. MISCELLANEOUS**

- 9.1 **Standing Orders to be given to Members of the Council** - It is the duty of the Director of Corporate Affairs to ensure that existing Members of the Council and all new appointees are notified of and understand their responsibilities within these Standing Orders.
- 9.2 **Review of Standing Orders** - Standing Orders shall be reviewed at least every three years by the Council. The requirement for review extends to all documents having the effect as if incorporated in Standing Orders.

## **ANNEX 8: STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE BOARD OF DIRECTORS**

### **FOREWORD**

Cambridge University Hospitals NHS Foundation Trust has Standing Orders (SOs) for the regulation of its proceedings and business.

Meetings and proceedings of the Trust need to be conducted in accordance with the rules set out in the Trust's Constitution and these SOs. Codes of best practice in Corporate Governance require boards also to adopt Standing Financial Instructions (SFIs).

These documents provide a regulatory framework for the internal control of the business conducted by the Trust. 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 Executive and Non-Executive Directors, Governors and members of staff should be aware of the existence of these documents and, where necessary, be familiar with the detailed provisions.

**CAMBRIDGE UNIVERSITY HOSPITALS NHS FOUNDATION  
TRUST**

**STANDING ORDERS OF THE BOARD OF DIRECTORS**

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## Section A

### INTRODUCTION

#### 1. Statutory / Regulatory Framework

- 1.1 Cambridge University Hospitals NHS Foundation Trust (The Trust) is a statutory body which became a public benefit corporation on 1 July 2004 following its approval as an NHS foundation trust.
- 1.2 The principal place of business of the Trust is Cambridge University Hospitals NHS Foundation Trust, Hills Road, Cambridge, Cambridgeshire CB2 0QQ.
- 1.3 NHS foundation trusts are governed by statute. The statutory functions conferred on the Trust are set out in the National Health Services Act 2006, the Trust's Constitution and licence. References to any statute or statutory provision include a reference to that statute or statutory provision as from time modified or re-enacted.
- 1.4 As a public benefit corporation, the Trust has specific powers to do anything which appears to be necessary or desirable for the purposes of, or in connection with, its functions. The Trust also has a common law duty as a bailee for patients' property held by the Trust on behalf of patients.
- 1.5 The Constitution requires the Trust to adopt Standing Orders (SOs) for the regulation of its proceedings and business.
- 1.6 When compiling their accounts, the Regulator requires that NHS foundation trusts comply with International Financial Reporting Standards (IFRS) as adopted by the European Union unless directed otherwise. NHS England and Improvement has produced an Annual Reporting Manual (ARM) which provides guidance for foundation trusts, consistent with the requirement of the International Accounting Standards Board.
- 1.7 Monitor's Code of Governance requires that the Board of Directors draws up a Schedule of Decisions Reserved to the Board, and ensures that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The Constitution also requires the establishment of an Audit Committee, an executive Remuneration Committee and a Nominations Committee.
- 1.8 The Bribery Act 2010 applies to NHS bodies including NHS foundation trusts and reinforces the need for staff to act with the utmost integrity, making it an offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or

abroad. The Bribery Act does not require any tangible or other item to be exchanged for an offence to take place. A member of staff acting in an improper manner may also expose the Trust to the corporate offence of failing to prevent bribery. The Board of Directors has made a clear statement regarding the Trust's stance on bribery and this is available on the Trust website.

1.9 These Standing Orders apply to the Board and its committees.

#### **Conflict with the Constitution**

1.10 Where any conflict arises between the Constitution and these Standing Orders, the Constitution shall have primacy.

## **Section B – Standing Orders**

### **1. INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS**

- 1.1 Save as otherwise permitted by law, and subject to the Constitution, at any meeting the Chair of the Trust shall be the final authority on the interpretation of Standing Orders (on which they will be advised by the Chief Executive or the Director of Corporate Affairs).
- 1.2 Any expression to which a meaning is given in the Health Service Acts or in the Regulations or Orders made under the Acts shall have the same meaning in this interpretation and in addition:

#### **Definitions**

‘Accounting Officer’ means the Officer responsible and accountable to Parliament for public funds entrusted to the Trust. The Accounting Officer for the Trust is the Chief Executive.

‘Auditor’ means the person appointed to audit the accounts of the Trust, who is called the auditor in the National Health Service Act 2006.

‘Board of Directors’ or ‘Board’ means the Board of Directors as constituted in accordance with the Trust’s Constitution.

‘Chair’ means the Chair of the Board of Directors and the Council of Governors.

‘Council of Governors’ means the Council of Governors as constituted in accordance with the Trust’s Constitution.

‘Committee’ means the Board of Directors’ meeting, a Committee, Sub Committee or Joint Committee as the context requires.

‘Committee members’ means persons formally appointed by the Trust to sit on or to chair specific committees.

“Constitution” means the Constitution, approved by the Board of Directors and Council of Governors, which describes the operation of the NHS foundation trust.

‘Vice Chair’ means the Non-Executive Director who may be elected by the Council of Governors to take on the Chair’s duties if the Chair is absent for any reason.

‘Director’ means a person appointed as an Executive or Non-Executive Director, and whose post carries with it Board membership (either as a voting or non-voting member) status, and includes the Chair. It does not necessarily include everyone whose job title includes the word ‘Director’.

The official register of Directors will be posted on the Trust website.

‘Director of Finance’ means the Chief Finance Officer of the Trust.

‘Executive Director’ means a Director who holds an executive office of the Trust.

‘Funds held on Trust’ shall mean those funds which the Trust holds at its date of incorporation, or chooses subsequently to accept.

‘Member’ means any person registered as a member of the Trust, and authorised to vote in elections to elect governors.

‘Motion’ means a formal proposition to be discussed and voted on during the course of a meeting.

‘Nominated Officer’ means an officer charged with the responsibility for discharging specific tasks within SOs and SFIs.

‘Non-Executive Director’ means a Director who does not hold an executive office of the Trust, including the Chair.

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

‘SoD’ means the Schedule of Decisions Reserved for the Board and Scheme of Delegation.

‘SFIs’ means Standing Financial Instructions.

‘SOs’ means Standing Orders.

‘Regulator’ means Monitor or its successor organisation. Currently this is NHS England and Improvement (NHSI).

‘Trust’ means Cambridge University Hospitals NHS Foundation Trust.

‘Trust Secretary’ means a person appointed by the Trust to act for the Board to provide advice on corporate governance issues to the Board and the Chair and monitor the Trust's compliance with the law, Standing Orders, Department of Health guidance and observance of the Terms of Authorisation and Licence. This position is currently held by the Director of Corporate Affairs.

## **2. THE TRUST**

### **2.1 Powers and Functions of the Trust**

2.1.1 All business shall be conducted in the name of Cambridge

University Hospitals NHS Foundation Trust.

- 2.1.2 All funds received in trust shall be held in the name of the Cambridge University Hospitals NHS Foundation Trust as corporate trustee. In relation to funds held on trust, powers exercised as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.
- 2.1.3 The Board of Directors 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 a separate document entitled 'Schedule of Decisions Reserved for the Board and Scheme of Delegation' and have effect as if incorporated into the Standing Orders.

## **2.2 Composition of the Board of Directors**

- 2.2.1 The composition of the Board of Directors shall be defined in the constitution.
- 2.2.2 The Trust may confer on senior staff the title "Director" as an indication of their corporate responsibility within the Trust, but such persons will not be Directors of the Trust for the purposes of the 2006 Act ("statutory directors") unless their title is "Executive Director" or "Non-Executive Director". Such Directors may be invited to attend meetings of the Board of Directors but will not have the voting rights of statutory directors or any power to bind the Trust.

## **2.3 Appointment of the Chair and Directors**

- 2.3.1 The Chair and the other Non-Executive Directors are appointed and removed by the Council of Governors in a General Meeting. The Council of Governors shall appoint a Nomination and Remuneration Committee including the Trust Chair (except in the case of consideration of the position of the Chair) to advise the Council of Governors on appointment, re-appointment and other associated issues.
- 2.3.2 The Non-Executive Directors of the Trust will appoint and remove the Chief Executive. The appointment of the Chief Executive is subject to the approval of a majority of the members of the Council of Governors present and voting at a meeting of the Council of Governors.
- 2.3.3 The Board shall appoint a Committee consisting of the Chair, the other Non- Executive Directors and the Chief Executive whose function will be to appoint and remove the Executive Directors of the Trust other than the Chief Executive.
- 2.3.4 The proceedings of the Trust shall not be invalidated by any vacancy in its membership or by any defect in a Director's appointment.

2.3.5 The Board will function as a unitary board and Executive and Non-Executive Directors will be full and equal members.

## **2.4 Terms of Office of the Chair and Board of Directors**

2.4.1. The Chair and the Non-Executive Directors are to be appointed for a period of office in accordance with the terms and conditions of office (including fees and allowances) decided by the Council of Governors at a General Meeting, on the recommendation of the Governors' Nomination and Remuneration Committee. Any re-appointment shall be subject to a satisfactory appraisal carried out in accordance with procedures.

2.4.2. The Executive Remuneration Committee (of Non-Executive Directors) shall decide the terms and conditions of office including remuneration and allowances of Executive Directors.

## **2.5 Appointment and Powers of Vice Chair**

2.5.1 For the purpose of enabling the proceedings of the Board to be conducted in the absence of the Chair, the Board of Directors shall elect one of the Non-Executive Directors to be Chair of the Board of Directors for the duration of the meeting.

2.5.2 On recommendation of the Trust Chair, the Council of Governors may appoint one of the Non-Executive Directors to the role of Vice Chair. In the absence of the Trust Chair, the Vice Chair (where appointed) shall have the full powers of the Trust Chair.

2.5.3 Any Non-Executive Director so elected may at any time resign from the office of Vice Chair by giving notice in writing to the Chair.

2.5.4 Where the Chair of the Trust has died or has ceased to hold office or where they have been unable to perform their duties as Chair owing to illness or absence for any other reason, the references to the Chair in these Standing Orders shall be taken to include references to the Vice Chair (where appointed).

## **2.6 Appointment and Powers of Senior Independent Director**

2.6.1 The Board of Directors (in consultation with the Council of Governors) may appoint one of the Non-Executive Directors to be the Senior Independent Director, for such period, not exceeding the remainder of their term as a member of the Board, as they may specify on appointing him or her.

2.6.2 Any Non-Executive Member of the Board so appointed may at any time resign from the office of Senior Independent Director by giving

notice in writing to the Chair. The Board of Directors (in consultation with the Council of Governors) may thereupon appoint another Non-Executive Member of the Board as Senior Independent Director.

## **2.7 Relationship between the Board of Directors and the Council of Governors**

- 2.7.1 The Board of Directors manage the business of the Trust (in accordance with the 2006 Act and the Constitution), and the Council of Governors conduct a number of tasks, among them: to approve the appointment of the Chair and Non-Executive Directors of the Board of Directors (on recommendation of the Governors' Nomination and Remuneration Committee); to decide NED fees and terms and conditions of office; to appoint the external auditor of the Trust; and to review various periodic reports listed in the constitution, presented to them by the Board of Directors. The Council of Governors will also represent the views of their constituency, or staff group, so that the needs of the community served by the Trust are taken into account when deciding the Trust's strategic direction.
- 2.7.2. In situations where any conflict arises between the Board of Directors and the Council of Governors, normal channels of communication via the Chair, Chief Executive or Senior Independent Director should be used as appropriate. Where this fails to solve the dispute then the Board and Council shall meet and attempt to resolve the dispute by negotiation. In normal circumstances the decision of the Chair on a dispute shall be final.
- 2.7.3. However, there may be circumstances where the Chair considers that they have a perceived or real interest in the outcome of the dispute and feels that the dispute would be better resolved externally. In this circumstance, the Chair may refer the dispute for resolution by mediation.

## **3. MEETINGS**

### **3.1 Calling of meetings**

- 3.1.1 Ordinary meetings of the Board shall be held at regular intervals at such times and places as the Board may determine.
- 3.1.2 Ordinary meetings of the Board of Directors are called by the Director of Corporate Affairs or by the Chair.
- 3.1.3 Where, in the opinion of the Chair, an urgent matter has arisen, the Chair may call a meeting of the Board at any time.
- 3.1.4 Four or more Directors of the Board may requisition a meeting by giving written notice to the Director of Corporate Affairs specifying the business to be carried out. The Director of Corporate Affairs shall send

a written notice to all Directors as soon as possible after receipt of such a request. The Director of Corporate Affairs shall call a meeting on at least 14 but not more than 28 days' notice to discuss the specified business. If the Director of Corporate Affairs fails to call such a meeting then the Chair or four Directors, whichever is the case, shall call such a meeting.

3.1.5 The Board may invite any person to attend all or part of a Board meeting.

### **3.2 Notice of meetings and business to be transacted**

3.2.1 Save in the case of emergencies or the need to conduct urgent business, the Director of Corporate Affairs shall give to all Directors at least 14 days' written notice of the date and place of every meeting of the Board of Directors.

3.2.2 Before each meeting of the Board, a notice of the meeting, specifying the business proposed to be transacted at it, shall be supplied to every Director, so as to be available to them at least three days before the meeting.

3.2.3 Lack of service of the notice on any Director shall not affect the validity of a meeting.

3.2.4 In the case of a meeting called by Directors in default of the Director of Corporate Affairs, the notice shall be signed either by the Chair or those Directors and no business shall be transacted at the meeting other than that specified in the notice.

3.2.5 Failure to serve such a notice on more than three Directors shall 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.

### **3.3 Public meetings**

3.3.1 Meetings of the Board of Directors shall be open to members of the public unless the Board of Directors decides by resolution to hold all or part of a meeting in private (see 3.18). 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, or for other special reasons.

### **3.4 Annual Meeting**

3.4.1 The Trust will hold an Annual Meeting within nine months of the end of each financial year at which the Board of Directors shall present the annual accounts, any report made on those accounts by the auditor, and forward planning information. A summary of the activities of the

Council of Governors shall be presented at the Annual Meeting.

### **3.5 Agendas and supporting papers**

- 3.5.1 The Board of Directors may determine that certain matters shall appear on every agenda for a meeting of the Board and shall be addressed prior to any other business being conducted.
- 3.5.2 A Director desiring a matter to be included on an agenda shall make this request in writing to the Director of Corporate Affairs at least 10 clear days before the meeting. Requests made less than 10 clear days before a meeting may be included on the agenda at the discretion of the Director of Corporate Affairs.
- 3.5.3 Papers may only be tabled at a meeting of the Board with the permission of the Chair or the majority of members present.
- 3.5.4 No business other than that on the agenda will be taken except where the Chair or the majority of members present considers an item should be discussed.

### **3.6 Chair of Board of Directors' meeting**

- 3.6.1 At any meeting of the Board of Directors, the Chair, if present, shall preside. If the Chair is absent from the meeting the Vice Chair (if one has been appointed), if present, shall preside.
- 3.6.2 If the Chair and Vice Chair are absent, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.6.3 If the Chair is absent from a meeting temporarily on the grounds of a declared conflict of interest, the Vice Chair, if present, shall preside. If the Chair and Vice Chair (if one has been appointed) are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose, shall preside.

### **3.7 Notices of Motions**

- 3.7.1 A Director of the Trust desiring to move or amend a motion shall send a written notice thereof, at least 10 clear days before the meeting to the Director of Corporate Affairs. The Director of Corporate Affairs 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 withdrawn or moved, without notice, on any business mentioned on the agenda.

### **3.8 Withdrawal of Motion or Amendments**

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

### **3.9 Motion to Rescind a Resolution**

3.9.1 Notice of motion to rescind any resolution (or the general substance of any resolution), which has been passed within the preceding six calendar months shall bear the signature of the Director who gives it and also the signature of four other Directors. When any such motion has been disposed of by the Board, it shall not be competent for any Director other than the Chair to propose a motion to the same effect within six calendar months. However, the Chair may do so if they consider it appropriate.

### **3.10 Motions**

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

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

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

**\*NB.** 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 and who is eligible to vote.

3.10.3 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.

### **3.11 Chair's Ruling**

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

### **3.12 Voting**

3.12.1 Decisions of the Board will normally be made by consensus rather than formal vote.

- 3.12.2 Questions arising at a meeting of the Board of Directors shall be decided by a majority of the votes.
- 3.12.2.1 In the case of an equal vote, the person presiding (i.e. the Chair of the meeting) shall have a second and casting vote.
- 3.12.2.2 No resolution of the Board of Directors shall be passed if it is unanimously opposed by all of the Executive Directors or all of the Non-Executive Directors present.
- 3.12.3 At the discretion of the Chair all questions put to vote shall be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Directors present so request.
- 3.12.4 If at least one third of the Directors present so request, the voting (other than by paper ballot) on any question may be recorded to show how each Director present voted or abstained.
- 3.12.5 If a Director so requests, their vote (other than by paper ballot) shall be recorded by name.
- 3.12.6 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.12.7 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's status when attending a meeting shall be recorded in the minutes.

### **3.13 Minutes**

- 3.13.1 The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next meeting.
- 3.13.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be recorded and agreed at the next meeting.
- 3.13.3 Minutes shall be circulated in accordance with Directors' wishes.

### **3.14 Suspension of Standing Orders**

- 3.14.1 The meetings and proceedings of the Trust shall be conducted in accordance with the Constitution.

3.14.2 Except where this would contravene any statutory provision or any direction made by the Secretary of State, or NHS England and Improvement or the Board itself any one or more of the Standing Orders may be suspended at any meeting, provided that at least two thirds of the Board are present (including a quorum) and that at least two thirds of those present vote in favour of suspension.

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

3.14.4 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and Directors.

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

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

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

3.15.1 These Standing Orders shall be amended only if:

- a) A notice of motion under these Standing Orders has been given; and b) At least two thirds of the Directors are present; and
- c) No fewer than half of the total of the Trust's Non-Executive Directors vote in favour of the amendment; and
- d) Providing any variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

### **3.16 Record of Attendance**

3.16.1 The names of the Chair, Directors and others present at the meeting shall be recorded in the minutes.

### **3.17 Quorum**

3.17.1 No business shall be transacted at a meeting of the Board of Directors unless at least one third of the Directors who are voting members, including at least one Executive Director and one Non-Executive Director, are present.

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

3.17.3 If the Chair or other 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 that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one Executive Directors to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting.

3.17.4 No resolution of the Board of Directors shall be passed if it is unanimously opposed by all of the Executive Directors or all of the Non-Executive Directors present.

### **3.18 Admission of the Public and Press**

3.18.1 The public and representatives of the press shall be allowed to attend all formal meetings of the Board of Directors, however the Board may for special reasons exclude public and press by virtue of the National Health Service Act 2006, Schedule 7, Paragraph 18e with the following resolution

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

3.18.2 Members of the public may only record proceedings of meetings held in public of the Board of Directors in strict accordance with the agreed policy of the Trust.

## **4. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS BY DELEGATION**

Subject to such directions as may be given by the Secretary of State, NHS England and Improvement or the Board itself, the Board may make arrangements for the exercise of any of its functions by a Committee or Sub-Committee, Joint Committee or by an Officer of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit.

### **4.1 Emergency Powers**

The powers which the Board has retained to itself may, in emergency,

be exercised by the Chief Executive and the Chair after having consulted at least two Non- Executive Directors. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board of Directors for ratification.

## **4.2 Delegation to Committees**

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

## **4.3 Delegation to Employees**

4.3.1 Those functions of the Trust which have not been retained as reserved by the Board or delegated to other committees or sub-committees or joint committees shall be exercised on behalf of the Board by the Chief Executive. The Chief Executive shall determine which functions he or she will perform personally and shall nominate employees to undertake the remaining functions for which they will retain accountability to the Board.

4.3.2 The Chief Executive shall prepare a Schedule of Decisions Reserved for the Board and Scheme of Delegation identifying his or her proposals, which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Schedule of Decisions Reserved for the Board and Scheme of Delegation, which shall be considered and approved by the Board as indicated above.

4.3.3 Nothing in the Schedule of Decisions Reserved for the Board and Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance or other Executive Directors to provide information and advice to the Board in accordance with Statutory, Regulatory or Department of Health and Social Care requirements. Outside these statutory requirements, the role of the Director of Finance shall be accountable to the Chief Executive for operational matters.

4.3.4. The arrangements made by the Board as set out in the Schedule of Decisions Reserved for the Board and Scheme of Delegation shall have effect as if incorporated in these Standing Orders.

## **5. COMMITTEES**

### **5.1 Appointment of committees**

- 5.1.1 Subject to such directions as may be given by the Constitution or by NHS England and Improvement, the Board may appoint committees of the Board, consisting wholly or partly of Directors of the Trust or wholly of persons who are not Directors of the Trust.
- 5.1.2 A committee appointed under these Standing Orders may, subject to such directions as may be given by NHS England and Improvement or the Board, appoint sub-committees consisting wholly or partly of members of the committee.
- 5.1.3. The Standing Orders of the Board shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Board. In which case the term 'Chair' is to be read as a reference to the Chair of the Committee as the context permits, and the term 'Director' or 'members of the Board' is to be read as a reference to a member of the committee also as the context permits.
- 5.1.4 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 Board) as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 5.1.5 Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board.
- 5.1.6 The Board shall approve the appointments to each of the committees which it has formally constituted.
- 5.1.7 Where the Board is required to appoint persons to a Committee and/or to undertake statutory functions as required by NHS England and Improvement, and where such appointments are to operate independently of the Board such appointment shall be made in accordance with applicable statute and regulations and with guidance issued by NHS England and Improvement.

### **5.2 Committees and sub-committees of the Board**

The Director of Corporate Affairs shall maintain a register of formal committees and sub-committees of the Board.

### **5.3 Confidentiality**

- 5.3.1 Directors of the Trust and members of any Board committee shall not disclose any matter dealt with by or brought before the Board or

committee without its permission, until the Board or committee shall otherwise have concluded action on that matter.

- 5.3.2 If the Board resolves that a matter reported to the Trust or otherwise dealt with by committee is confidential, then members of the Board of Directors or the committee in question shall not disclose any such matter.

## **6. DECLARATION OF INTERESTS**

- 6.1.1 The Director of Corporate Affairs will ensure that a Register of Interests is established to record formally declarations of interests.

- 6.1.2 The nature of interests which require declaration are defined in the Trust's Conflicts of Interest Policy. The policy will also define the frequency at which Directors are required to update their own declarations and the consequences for failing to comply with the requirements of the policy.

- 6.2.7 The Register of Interests for Directors will be available to the public and the Trust will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.

### **6.3 Declaring interests**

#### **6.3.1 Advice on Interests**

If Directors have any doubt about the relevance of an interest, this should be discussed with the Chair or Chief Executive as applicable (who may refer to the Director of Corporate Affairs/Chief Executive/Chair/Director of Finance as appropriate).

The influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

#### **6.3.2. Recording of Interests in Board Minutes**

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

#### **6.3.3. Conflicts of Interest which arise during the course of a meeting**

During the course of a meeting, if a conflict of interest is established, the individual concerned should bring this to the meeting's attention and the Chair will then decide if the conflict requires the individual to withdraw from the meeting and play no part in the relevant discussion or decision.

## **7. EXCLUSION OF DIRECTORS IN PROCEEDINGS ON ACCOUNT OF PECUNIARY INTEREST**

- 7.1 Subject to the following provisions of this Standing Order, if a Director of the Trust has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- 7.2 The Board or committee may exclude any Director from a meeting while any contract, proposed contract or other matter in which they have a pecuniary interest, is under consideration.
- 7.3 Any fee, compensation or allowances payable to the Chair or a Director by virtue of their appointment shall not be treated as a pecuniary interest for the purposes of this Standing Order.
- 7.4 For the purpose of this Standing Order a Director, shall be treated, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:
- a) they, or a nominee, 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 matter under consideration;
- or:
- b) they are a partner of, or is in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration; and, in the case of persons living together as partners the interest of one partner shall, if known to the other, be deemed for the purposes of this Standing Order to be also an interest of the other.
- 7.5 A Director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

- a) of his or her membership of a company or other body, if they have 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 or she is connected as mentioned above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Director in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

7.6 Where a Director:

- a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and
- b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and
- c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

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

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

## **8. CONFLICTS OF INTEREST POLICY**

### **8.1 Policy**

8.1.1 All Trust staff, Directors and Governors must comply with Trust SOs, SFIs, SOD, and relevant national guidance. The following provisions should be read in conjunction with these documents.

### **8.2 Interest of Officers in Contracts**

8.2.1 Any Director who comes to know that the Trust has entered into, or proposes to enter into a contract in which they or any person connected to them has any pecuniary interest, direct or indirect, they shall declare their interest by giving notice in writing of such fact to the

Chief Executive and/or the Director of Corporate Affairs as soon as practicable. In the case of persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

8.2.2 Any Director must also declare to the Chair and/or Director of Corporate Affairs any other employment or business or other relationship of his, or of a cohabiting partner, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.

8.2.3 The Trust will require interests, employment or relationships so declared to be entered in registers of interests.

### **8.3 Canvassing of, and Recommendations by, Directors or Governors in Relation to Appointments**

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

8.3.2 A Director or Governor of the Trust shall not solicit for any person any appointment under the Trust or recommend any person for such appointment. This paragraph shall not preclude a Director or Governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.

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

### **8.4 Relatives of Directors or Officers**

8.4.1 Candidates for any appointment with the Trust shall when making an 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 or her liable to instant dismissal.

8.4.2 The Chair and every Director and employee of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature they are aware. It shall be the duty of the Chief Executive to report to the Board of Directors any such disclosure made.

8.4.3 On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Board any relationship any other Director or holder of any office under the Trust.

8.4.4 Where the relationship of an employee or another Director to a Director of the Trust is disclosed, the Standing Order headed 'Exclusion of Chair and of Directors in Proceedings on Account of Pecuniary Interest' shall apply.

## **9. TENDERING AND CONTRACT PROCEDURE**

### **9.1 Duty to comply with Standing Orders**

The procedure for making all contracts by or on behalf of the Board or Trust shall comply with these Standing Orders. Due consideration will at all times be given to the Bribery Act 2010.

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

- (a) these Standing Orders;
- (b) the Standing Financial Instructions;
- (c) the Schedule of Decisions reserved for the Board of Directors and Scheme of Delegation;
- (d) Council of the European Union directives and other statutory provisions.

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

### **10.1 Custody of Seal**

The Common Seal of the Trust shall be kept by the Director of Corporate Affairs.

### **10.2 Sealing of Documents**

Two Executive Directors have general authority to execute a deed and to attest to the affixing of the seal.

### **10.3 Register of Sealing**

A register shall be maintained detailing the use of the Trust seal. The register shall be held by the Director of Corporate Affairs and the use of the seal shall be reported to the Board of Directors at least quarterly.

## **11. SIGNATURE OF DOCUMENTS**

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

11.2 The Chief Executive or nominated officers shall be authorised, by resolution of the Board, to sign on behalf of the Trust any agreement or other document (not required to be executed as a deed) the subject matter of which has been approved by the Board or committee or sub-committee to which the Board has delegated appropriate authority.

## **12. MISCELLANEOUS**

### **12.1 Standing Orders to be given to Directors and Employees**

It is the duty of the Chief Executive to ensure that existing Directors and employees and all new appointees are notified of and understand their responsibilities within Standing Orders and SFIs. Updated copies shall be issued to staff designated by the Chief Executive. The most recent copy of the Standing Orders, SFIs and Scheme of Delegation will be available on MERLIN.

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

Standing Financial Instructions and Schedule of Decisions Reserved for the Board and Scheme of Delegation shall have the effect as if incorporated into SOs.

### **12.3 Review of Standing Orders**

Standing Orders and all incorporated documents shall be reviewed periodically by the Trust.

## **ANNEX 9a: APPOINTMENT OF NON-EXECUTIVE DIRECTORS**

### **Committee**

1. The Council of Governors will establish a committee for the purpose of advising the Council of Governors on the appointment, re-appointment and removal of Non-Executives Directors and the Chair of the Trust. The committee shall also be responsible for advising the Council of Governors on other related issues such as remuneration of the Chair and Non-Executive Directors.
2. The terms of reference for the committee shall be agreed by the Council of Governors and reviewed at least every three years.

### **Appointment and re-appointment**

3. Non-Executive Directors will normally be appointed for a term of three years following open competition.
4. Non-Executive Directors can be appointed on an interim basis for a maximum period of six months without open competition, subject to the agreement of the Council of Governors. The term of office can be extended for a maximum of one additional term of six months.
5. Subject to the approval of the Council of Governors, Non-Executive Directors (excluding the Chair) may be re-appointed for maximum individual terms of three years up to a cumulative maximum length of service on the Board of nine years.
6. Subject to the approval of the Council of Governors, the Chair may be re-appointed for maximum individual terms of three years up to a cumulative maximum length of service on the Board of nine years, and in exceptional circumstances<sup>1</sup> up to a cumulative maximum length of service on the Board of twelve years.

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<sup>1</sup> Exceptional circumstances are likely to be situations or events which would not commonly arise; which have the potential to impact materially on the effective operation of the Trust and/or the achievement of its key strategic objectives: and where the continuity of the Chair is considered to be a material factor in mitigating the potential impact

7. In the event that the Council of Governors re-appoints the Chair in excess of a cumulative maximum length of service on the Board of nine years, the Council will be required to set out in documentation published on the Trust's website the details of the exceptional circumstances which it has identified, the reasons for them being regarded as exceptional and the process which it has followed to reach this decision. This typically would involve having sought the views of key stakeholders.

## **Removal**

8. Removal of Non-Executive Directors (including the Chair) will only very rarely occur. The committee can only recommend removal of a Non-Executive Director following consultation (normally via the Lead Governor) with NHS England and Improvement.

## **ANNEX 9b: LEAD AND DEPUTY LEAD GOVERNORS**

The Council of Governors agreed on 25 September 2019 the updated role description and eligibility criteria for the Lead Governor and Deputy Lead Governor.

### **Lead Governor**

NHS England and Improvement requires all Foundation Trusts to nominate a Lead Governor, to be the main point of contact between governors and NHS England and Improvement where communication via the Trust or Trust Chair may not be appropriate. Trusts may agree additional responsibilities as part of the role.

At Cambridge University Hospitals NHS Foundation Trust (CUH), the Lead Governor will be elected by the Council of Governors from among the public and patient governors and will hold a term of office for two years (which can be renewed once up to a maximum cumulative term of four years) or for the remainder of their unexpired tenure as a governor. It is the Council of Governors as a whole (and no individual governor) that has the responsibilities and powers in statute.

The responsibilities of the Lead Governor at CUH are outlined below and include both core and additional responsibilities.

#### *Statutory role*

As outlined in the Foundation Trust Code of Governance, the Lead Governor is required to be a main point of contact for NHS England and Improvement, on behalf of the governors, in circumstances when it may not be appropriate to communicate through the Chair or vice versa.

The Lead Governor will facilitate direct communication between NHS England and Improvement and the Council of Governors. Therefore if another governor wishes to contact NHS England and Improvement, it is expected that this would be through the Lead Governor.

There are only a limited number of circumstances when NHS England and Improvement consider it is appropriate to contact the Lead Governor directly, such as:

- If they have concerns regarding Board leadership and feel that a Foundation Trust may be in breach of its licence.
- If they consider that appointments or elections or other material decisions may not have complied with the Trust's Constitution.

The Lead Governor should take steps to understand the role of NHS England and Improvement and the basis by which they may take regulatory action.

### *Other responsibilities*

In terms of other responsibilities the Lead Governor role at CUH will:

- Support the Trust Secretariat in gathering feedback from governors for the 360 appraisals of Non-Executive Directors and the Chair.
- Be a member of the Governors' Nomination and Remuneration Committee. This Committee recommends the appointment, removal and remuneration of the Chair and Non-Executive Directors to the Council of Governors.
- Have right of attendance at the Trust Constitution Committee. This Committee recommends changes to the Constitution to the Council of Governors and the Board of Directors.
- Liaise with the Chair and Senior Independent Director regarding issues relating to the Council of Governors and the activities of governors, including raising concerns as appropriate.
- Chair informal governor-only meetings.
- Prepare the Lead Governor report and present it at the Council of Governors, Annual Members Meeting and meetings of the Board of Directors held in public.
- Lead the governors in fulfilling their statutory duties such as holding Non-Executive Directors to account and communicating with the Trust's membership.
- Act as the governor point of contact for the Care Quality Commission (CQC) and other external organisations where communication via the Trust is not appropriate.
- Attend Board of Directors meetings held in public or nominate a deputy if unable to attend.

- Consult with governors and co-ordinate responses on issues relating to the Council of Governors and activities of governors.
- Liaise with the Working Group Chairs and Deputy Lead Governor regarding the agenda planning for Governor-Director Working Groups and the Council of Governors.

### **Deputy Lead Governor**

The Council of Governors may also elect a Deputy Lead Governor from among the public and patient governors and the elected governor will hold a term of office for two years (which can be renewed once up to a maximum cumulative term of four years) or for the remainder of their unexpired tenure as a governor. The Deputy Lead Governor is a discretionary role and has no specific powers or responsibilities other than those listed below.

- With the advance agreement of the Lead Governor, the Deputy Lead Governor will deputise in the absence of the Lead Governor.
- The Deputy Lead Governor will be involved in the agenda planning for Governor Director Working Groups and the Council of Governors with the Working Group Chairs and the Lead Governor.

**- End -**