

**Standing Orders,  
Scheme of Delegation and Standing Financial Instructions**

**January 2025**

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## **SECTION A:**

### **INTERPRETATION AND DEFINITIONS FOR STANDING ORDERS AND STANDING FINANCIAL INSTRUCTIONS**

#### **Introduction**

Within the Terms of Authorisation issued by the Independent Regulator - NHS England (NHSE), the statutory entity that regulates NHS Foundation Trusts, NHS Foundation Trusts are required to demonstrate appropriate arrangements to provide comprehensive governance arrangements in accordance with the Health and Social Care (Community Health and Standards) Act 2008.

Standing Orders (SOs) regulate the proceedings and business of the Trust and are part of its corporate governance arrangements. In addition, as part of accepted Codes of Conduct and Accountability arrangements, boards are expected to adopt schedules of reservation of powers and delegation of powers. These schedules are incorporated within the Trust's Scheme of Delegation.

These documents, together with Standing Financial Instructions, Standards of Business Conduct and Managing Declarations of Interests Policy for NHS Staff, Budgetary Control Procedures, the Local Anti-Fraud, Bribery and Corruption Policy and the procedures for the Declaration of Interest provide a regulatory framework for the business conduct of the Trust. They fulfil the dual role of protecting the Trust's interests and protecting staff from possible accusation that they have acted less than properly.

The Standing Orders, Scheme of Delegation, Standing Financial Instructions and Budget Manual provide a comprehensive business framework that is to be applied to all activities, including those of the Charitable Foundation. Members of the Trust Board and all members of staff should be aware of the existence of and work to these documents.

These documents apply to all activities of the Trust and specifically including commissioning activities undertaken via the Provider Collaborative which should follow the same principles as the Trust who has the overall responsibility for the reporting arrangements.

#### **Interpretation**

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

Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990 and other Acts relating to the National Health Service or in the Financial Regulations made under the Acts shall have the same meaning in these Standing Orders and Standing Financial Instructions and in addition:

**"Accounting Officer"** means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.

**"Associate Member"** means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the Trust Board for them to perform and these duties have been recorded in an appropriate Trust Board minute or other suitable record.



**“Associate Non-Executive Director”** means a person appointed to support the Board succession strategy without the associated rights or liabilities. Associate Non-Executive Directors cannot participate in any formal vote at Board.

**“Audit Committee”** means a Committee whose functions are concerned with the scrutiny and review of Trust systems, risk management and internal control.

**“Budget”** means a resource, expressed in financial terms, proposed by the Trust Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.

**“Budget Holder”** means the Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.

**“Chair of the Trust Board (or Trust)”** is the person appointed to lead the Board and Council of Governors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole.

The expression “the Chair of the Trust” shall be deemed to include the Deputy Chair, if one is appointed, of the Trust if the Chair is absent from the meeting or is otherwise unavailable.

**“Chief Executive”** means the Chief Officer of the Trust.

**“Commissioning”** means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.

**“Committee”** means a Committee or sub-Committee created and appointed by the Trust Board.

**“Collaborative Committee”** – means a Committee whose functions are to hold delegated responsibility to provide commissioning leadership and monitoring functions on behalf of the Provider Collaborative.

**“Committee members”** means persons formally appointed by the Trust Board to sit on or to chair specific Committees.

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

**“Council of Governors”** means the body of persons elected and appointed, to fulfil the functions in accordance with the Constitution authorised to be members of the Council of Governors and act in accordance with the Constitution.

**“Deputy Chair”** means the Non-Executive Director appointed by the Council of Governors to take on the Chair’s duties if the Chair is absent for any reason.

**“Director of Finance”** means the Chief Financial Officer of the Trust.

**“Finance & Investment Committee”** means a Committee whose functions are to monitor, review and support the finance functions of the Trust.

**“Funds held on trust”** shall mean those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under S.90 of the NHS Act 1977.

**“Independent Regulator”** means the regulator for the purpose of Part 1 of the 2003 Act NHS England (NHSE), the statutory entity that remains the regulator of NHS foundation trusts.

**“Member”** means officer or non-officer member of the Trust Board as the context permits. Member in relation to the Trust Board does not include its Chair.

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

**"Non-Executive Director"** means a Director who is not an officer of the Trust and who has been appointed in accordance with the Constitution. This includes the Chair member of the Trust Board who does not hold an executive office of the Trust.

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

**"Officer Member"** means a member of the Trust who is either an officer of the Trust or is to be treated as an officer by virtue of regulation 1(3) (i.e. the Chair of the Trust or any person nominated by such a Committee for appointment as a Trust member).

**"Provider Collaborative"** – A group of providers who have agreed to work together to improve the care pathway for their local population.

**"Provider Licence"** – replaced the Terms of Authorisation and is how the Independent Regulator regulates providers of NHS Services.

**"Quality Committee"** means a Committee whose functions are to provide the strategic overview of and assurance against clinical and quality governance, clinical risk and patient and carer experience and engagement issues in the Trust.

**"Secretary"** means a person appointed by the Trust (the Trust Secretary) to act independently of the Trust Board and Council of Governors and monitor the Trust's compliance with the law, Standing Orders, Department of Health guidance, the Constitution and Provider Licence.

**"Senior Employee"** means an employee on Very Senior Manager pay and conditions

**"Senior Manager"** means an employee of band 8c and above.

**"SFIs"** means Standing Financial Instructions which regulate the conduct of the Trust's financial matters.

**"SOs"** means Standing Orders.

**"Trust"** means Humber Teaching NHS Foundation Trust.

**"Trust Board"** means the Chair, Chief Executive, Non-Executive Directors and Executive Directors of the Trust collectively as a body.

## **SECTION B: STANDING ORDERS**

### **1. Introduction**

#### **Statutory Framework**

Humber Teaching NHS Foundation Trust ("the Trust") came into existence on 1 February 2010 pursuant to authorisation of Monitor under the Health and Social Care (Community Health and Standards) Act 2008 ("the 2008 Act"). Prior to 1<sup>st</sup> April 2018 the Trust was known as Humber NHS Foundation Trust.

The principal place of business is:-

Trust Headquarters  
Block A, Ground Floor,  
Willerby Hill,  
Beverley Road,  
Willerby,  
East Riding of Yorkshire  
HU10 6FE

NHS Foundation Trusts are governed by the Health and Social Care Act 2012, its Constitution, Provider License, Governors and members.

As a Foundation Trust the Trust has specific powers to contract in its own name and to act as a corporate trustee. It is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health.

The Trust also has statutory powers under Section 28A of the NHS Act 1977, as amended by the Health Act 1999, to fund projects jointly planned with local authorities, voluntary organisations and other bodies.

The Code of Accountability requires the Trust to adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals. The Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

#### **NHS Framework**

In addition to the statutory requirements the Secretary of State through the Department of Health issues further directions and guidance. These are normally issued under cover of a circular or letter.

The Constitution requires that, inter alia, Trust Boards' draw up a Schedule of Matters Reserved to the Trust Board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives.

The Constitution also requires the establishment of an Audit Committee and a Remuneration Committee with formally agreed terms of reference. The Trust also has a Code of Conduct for Directors.

#### **Delegation of Powers**

The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under the Standing Order relating to the Arrangements for the Exercise of Functions (SO 5) the Trust is given powers to "make

arrangements for the exercise, on behalf of the Trust of any of their functions by a Committee, sub-Committee or joint Committee appointed by virtue of Standing Order 4 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit or as the Independent Regulator may direct".

## **2. The Trust**

All business shall be conducted in the name of the Trust.

The roles and responsibilities of the Trust Board are set out in Annex 8 of the [Constitution](#)

The powers of the Trust established under statute shall be exercised by the Trust Board except as otherwise provided for in Standing Order 4.

Directors acting on behalf of the Trust as corporate trustee of the NHS FT Charitable Funds are accountable for charitable funds held on trust to the Charity Commission.

### **2.1 Composition of the Membership of the Trust Board**

2.1.1 In accordance with the Constitution the composition of the Board shall comprise both Executive and Non-Executive Directors. The Trust is to have a Board of Directors, which shall comprise both Executive and Non-Executive Directors.

The current composition consists of:

- The Chair of the Trust (appointed by the Council of Governors);
- 5 other Non-Executive Directors (appointed by the Council of Governors);
- 5 Executive Directors (but not exceeding the number of non-officer members) including;
  - a Chief Executive
  - a Finance Director
  - a Registered Medical Practitioner
  - a Registered Nurse
- A non-voting Director;
- Two Associate Non-Executive Directors (also non-voting)

The Trust may appoint other Executive, Non-Executive and Associate Non-Executive Directors as deemed necessary and in accordance with the Scheme of Delegation.

### **2.2 Appointment of Chair and Non-Executive Director Members of the Trust Board**

2.2.1 The Chair and Non-Executive Directors shall be appointed and removed by the Council of Governors in accordance with the Constitution. The Chief Executive shall also be appointed and removed in accordance with the Constitution.

### **2.3 Terms of Office of the Chair**

2.3.1 The provisions governing the period of tenure of office of the Chair and the termination of the office of the Chair are contained in the Constitution. The Chair and the Non-Executive Directors are to be appointed for a period of office in accordance with the Constitution. The terms and conditions of the office are decided by the Council of Governors at a General Meeting.

## **2.4 Appointment and Powers of Deputy Chair**

- 2.4.1 The Council of Governors may appoint a Deputy Chair in accordance with the Constitution.
- 2.4.2 Any Non-Executive Director so appointed may at any time resign from the office of Deputy Chair by giving notice in writing to the Chair.
- 2.4.3 Where the Chair of the Trust has ceased to hold office or has been unable to perform their duties as Chair owing to absence through illness or any other cause, then the term Chair shall, so long as there is no Chair able to perform those duties, be taken to include references to the Deputy Chair, should a Deputy Chair have been appointed.

## **2.5 Appointment of Senior Independent Director**

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

### **2.5.2 Role of Trust Board**

The Board will function as a corporate decision-making body. Executive and Non-Executive Directors will be full and equal members. Their role as members of the Trust Board will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

## **2.6 Joint Directors**

- 2.6.1 Where more than one person is appointed jointly to a post in the Trust which qualifies the holder for Executive Directors, those persons shall become appointed as an Executive Director jointly and shall count for the purpose of Standing Orders as one person.
- 2.6.2 Where a post of Executive Director of the Trust Board is shared jointly by more than one person:
  - (a) either or both of those persons may attend or take part in meetings of the Trust Board;
  - (b) if both are present at a meeting they should cast one vote if they agree;
  - (c) in the case of disagreements no vote should be cast;
  - (d) the presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 3.11 Quorum.

## **2.7 Role of Members**

- 2.7.1 The Trust Board will function as a corporate decision-making body, Executive Directors and Non-Executive Directors will be full and equal members. Their role as members of the Trust Board will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

### **2.7.2 Executive Members**

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

### **2.7.3 Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. He/she is the Accounting Officer for the Trust and shall be responsible for ensuring the discharge of obligations under Financial Directions and in line with the requirements of the Accountable Officer Memorandum for Trust Chief Executives.

### **2.7.4 Director of Finance**

The Director of Finance shall be responsible for the provision of financial advice to the Trust and to its members and for the supervision of financial control and accounting systems. He/she shall be responsible along with the Chief Executive for ensuring the discharge of obligations under relevant Financial Directions.

### **2.7.5 Non-Executive Directors**

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

### **2.7.6 Chair**

The Chair shall be responsible for the operation of the Trust Board and chair all Trust Board meetings when present. The Chair must comply with the terms of appointment and with these Standing Orders.

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

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

## **2.8 Corporate Role of the Trust Board**

2.8.1 All business shall be conducted in the name of the Trust.

2.8.2 All funds received in trust shall be held in the name of the Trust as corporate trustee.

2.8.3 The Trust has the functions conferred on it by the Health and Social Care (Community Health and standards) Act 2003 and by its Provider Licence, which include the Constitution.

2.8.4 The Trust Board shall define and regularly review the functions it exercises on behalf of the Independent Regulator.

## **2.9 Schedule of Matters Reserved to the Trust Board and Scheme of Delegation**

2.9.1 The Trust Board has resolved that certain powers and decisions may only be exercised by the Trust Board in formal session. These powers and decisions are set out in the Schedule of Matters Reserved to the Board in Section B of this document and shall have effect as if incorporated into the Standing Orders. Those powers

which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

## **2.10 Lead Roles for Trust Board Members**

- 2.10.1 The Chair will ensure that the designation of lead roles or appointments of Board guidance will be made in accordance with that guidance or statutory requirement.

## **2.11 Relationship between the Trust Board and the Council of Governors**

- 2.11.1 In summary the Trust Board manage the business of the Trust (in accordance with the Constitution) and the Council of Governors conduct a number of tasks amongst them, approving the appointment of Non-Executive Directors and deciding their remuneration, terms and conditions (following recommendations from the Appointments, Terms and Conditions Committee); appointing the external auditors (following recommendations made to the Council of Governors by any task and finish group established to progress the appointment ; and to review various periodic reports listed in the Constitution, presented to them by the Trust Board. The Council of Governors will represent the views of their constituencies so that the needs of the local health economy are taken into account when deciding the Trust's strategic direction.
- 2.11.2 In the event of any issues of conflict between the Trust Board and the Council of Governors, this should be raised with the Lead Governor and Senior Independent Director (SID). If a resolution cannot be found, the issue should be escalated to the Chair whose decision shall normally be final.

## **3. Meetings of the Trust Board**

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

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

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

It was **resolved** that members of the public would be excluded from the second part of the meeting having regard to the confidential nature of the business to be transacted, publicity of which would be prejudicial to the public interest.

Matters to be dealt with by the Board following the exclusion of representatives of the press, and other members of the public, as provided above, shall be confidential to the members of the Board.

Members and Officers or any employee of the Trust in attendance shall not reveal or disclose the contents of papers marked 'in confidence' or minutes and papers headed 'private' outside of the Trust, without the express permission of the Trust. This prohibition shall apply equally to the content of any discussion during the Board meeting which may take place on such reports or papers.

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

### **3.1 Calling Meetings**

- 3.1.1 Ordinary meetings of the Trust Board shall be held on a bi-monthly basis at such times and places as the Trust Board may determine. Meetings of the Trust Board will be held in public.
- 3.1.2 The Chair of the Trust may call a meeting of the Trust Board at any time.
- 3.1.3 One third or more of the voting Directors of the Trust Board may requisition a meeting in writing. If the Chair refuses, or fails, to call a meeting within seven days of a requisition being presented, the members signing the requisition may forthwith call a meeting.

### **3.2 Notice of Meetings and the Business to be Transacted**

- 3.2.1 Before each meeting of the Trust Board a written notice specifying the business proposed to be transacted shall be delivered to every Director (by email or post to the usual place of residence of each Director) so as to be available to members at least five clear days before the meeting. Lack of service of such a notice on any member shall not affect the validity of a meeting. Details of meetings and the public agenda will be published on the Trust's website.
- 3.2.2 In the case of a meeting called by members in default of the Chair calling the meeting, the notice shall be signed by those members.
- 3.2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6.
- 3.2.4 A member 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.
- 3.2.5 Before each meeting of the public Trust Board a notice of the time and place of the meeting shall be displayed on the Trust's website at least three clear days before the meeting. The public agenda and papers will be available on the Trust's website.

### **3.3 Agenda and Supporting Papers**

- 3.3.1 The agenda will be sent to members 5 working days before the meeting and supporting papers, whenever possible, shall accompany the agenda,

### **3.4 Petitions**

- 3.4.1 Where a petition has been received by the Trust the Chair shall include the petition as an item for the agenda of the next meeting.

### **3.5 Notice of Motion**

- 3.5.1 Subject to the provision of Standing Orders 3.7 'Motions: Procedure at and during a meeting' and 3.8 'Motions to rescind a resolution', a member of the Trust Board



wishing to move a motion shall send a written notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chair.

- 3.5.2 The notice shall be delivered at least 14 clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### **3.6 Emergency Motions**

- 3.6.1 Subject to the agreement of the Chair, and subject also to the provision of Standing Order 3.7 'Motions: Procedure at and during a meeting', a member of the Trust Board may give written notice of an emergency motion after the issue of the notice of meeting and agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, it shall be declared to the Trust Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chair's decision to include the item shall be final.

### **3.7 Motions: Procedure at and During a Meeting**

3.7.1 i) **Who May Propose**

A motion may be proposed by the Chair of the meeting or any Director present. It must also be seconded by another Director.

3.7.2 ii) **Contents of Motions**

The Chair may exclude from the debate at their discretion any such motion of which notice was not given on the notice summoning the meeting other than a motion relating to:

- the receipt of a report;
- consideration of any item of business before the Trust Board;
- the accuracy of minutes;
- that the Trust Board proceed to next business;
- that the Trust Board adjourn;
- that the question be now put.

3.7.3 iii) **Amendments to Motions**

A motion for amendment shall not be discussed unless it has been proposed and seconded.

Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Trust Board

If there are a number of amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

3.7.4 iv) **Rights of Reply to Motions**

a) Amendments

The mover of an amendment may reply to the debate on their amendment immediately prior to the mover of the original motion, who shall have the right of reply at the close of debate on the amendment, but may not otherwise speak on it.

b) Substantive/original motion

The member who proposed the substantive motion shall have a right of reply at the close of any debate on the motion.

3.7.5 v) **Withdrawing a Motion**

A motion, or an amendment to a motion, may be withdrawn.

3.7.6 vi) **Motions Once under Debate**

When a motion is under debate, no motion may be moved other than:

- an amendment to the motion;
- the adjournment of the discussion, or the meeting;
- that the meeting proceed to the next business;
- that the question should be now put;
- the appointment of an 'ad hoc' Committee to deal with a specific item of business;
- that a Director be not further heard;

In those cases where the motion is either that the meeting proceeds to the 'next business' or 'that the question be now put' in the interests of objectivity these should only be put forward by a member of the Trust Board who has not taken part in the debate and who is eligible to vote.

If a motion to proceed to the next business or that the question be now put, is carried, the Chair should give the mover of the substantive motion under debate a right of reply, if not already exercised. The matter should then be put to the vote.

**3.8 Motion to Rescind a Resolution**

3.8.1 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 three other Directors, and before considering any such motion of which notice shall have been given, the Trust Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.

3.8.2 When any such motion has been dealt with by the Trust Board it shall not be competent for any Director other than the Chair to propose a motion to the same effect within six months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

**3.9 Chair of Meeting**

3.9.1 At any meeting of the Trust Board the Chair, if present, shall preside. If the Chair is absent from the meeting, the Deputy-Chair (if the Board has appointed one), if present, shall preside.

3.9.2 If the Chair and Deputy Chair are absent, such member (who is not also an Officer Member of the Trust) as the members present shall choose shall preside.

**3.10 Chair's Ruling**

3.10.1 The decision of the Chair of the meeting on questions of order, relevancy and regularity (including procedure on handling motions) and their interpretation of the Standing Orders and Standing Financial Instructions, at the meeting, shall be final.

### **3.11 Quorum**

- 3.11.1 No business shall be transacted at a meeting unless at least one-third of the whole number of the Chair and Board members (including at least one Executive Director and one Non-Executive Director) is present.
- 3.11.2 An Officer in attendance for an Executive Director (Officer Member) but without formal acting up status may not count towards the quorum.
- 3.11.3 If the Chair or another Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see Standing Order 7) 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.

### **3.12 Voting**

- 3.12.1 Save as provided in Standing Orders 3.13 - Suspension of Standing Orders and 3.14 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of Directors present and voting on the question. In the case of an equal vote, the person presiding (ie: the Chair of the meeting) shall have a second, and casting vote.
- 3.12.2 At the discretion of the Chair all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chair directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.
- 3.12.3 If at least one third of the Directors present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- 3.12.4 If a Director so requests, their vote shall be recorded by name.
- 3.12.5 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.12.6 A manager who has been formally appointed 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.
- 3.12.7 A manager attending the Trust Board meeting to represent an Executive Officer during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. A manager's status when attending a meeting shall be recorded in the minutes.
- 3.12.8 For the voting rules relating to joint directors see Standing Order 2.6.

### **3.13 Suspension of Standing Orders**

- 3.13.1 Except where this would contravene any statutory provision or the rules relating to the Quorum (SO 3.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Trust Board are present (including at least one member who is an Executive Director of the Trust and one member who is a Non-Executive Director) and that at least two-thirds of those Directors present signify their agreement to such suspension. The reason for the suspension shall be recorded in the Trust Board' minutes.

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

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

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

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

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

- upon a notice of motion under Standing Order 3.5;
- upon a recommendation of the Chair or Chief Executive included on the agenda for the meeting;
- that two thirds of the Trust Board members are present at the meeting where the variation or amendment is being discussed, and that at least half of the Trust's Non-Executive Directors vote in favour of the amendment;
- providing that any variation or amendment does not contravene a statutory provision or direction made by the Secretary of State.

### **3.15 Record of Attendance**

3.15.1 The names of the Chair and Directors/members present at the meeting shall be recorded.

### **3.16 Minutes**

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

3.16.2 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate.

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

#### **3.17.1 Admission and Exclusion on Grounds of Confidentiality of Business to be Transacted**

The public and representatives of the press may attend each meeting of the Trust Board, but shall be required to withdraw upon the Trust Board as follows:

*It was resolved that members of the public would be excluded from the second part of the meeting having regard to the confidential nature of the business to be transacted, publicity of which would be prejudicial to the public interest.*

The Trust Board meetings shall be held in public, at which members of the public and representatives of the press shall be permitted to attend. Members of the public are not permitted to ask questions during the meeting as it is a meeting held in public, not a public meeting. However, questions can be submitted to the Chair at the end of a meeting. Responses to the questions may be given at that time or in writing within 5 days of the meeting. Members of the public may be excluded from a meeting for special reasons and having regard to the confidential nature of the business to be transacted, publicity of which would be prejudicial to the public interest.

#### **3.17.2 General Disturbances**

The Chair (or Deputy Chair) or the person presiding over the meeting

shall give such directions as they think fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Trust's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Trust Board resolving as follows:

*'That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Trust Board to complete its business without the presence of the public'.*

### **3.17.3 Business Proposed to be Transacted when the Press and Public have been Excluded from a Meeting**

Matters to be dealt with by the Trust Board following the exclusion of representatives of the press, and other members of the public, as provided in 3.17.1 and 3.17.2 above, shall be confidential to the members of the Trust Board.

Members and Officers or any employee of the Trust in attendance shall not reveal or disclose the contents of papers marked 'In Confidence' "private" or minutes headed "strictly confidential, not for wider circulation" outside of the Trust, without the express permission of the Trust. This prohibition shall apply equally to the content of any discussion during the Trust Board meeting which may take place on such reports or papers.

### **3.17.4 Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings**

Nothing in these Standing Orders shall be construed as permitting the introduction by the public, or press representatives, of recording, transmitting, video or similar apparatus into meetings of the Trust or Committee thereof. Such permission shall be granted only upon resolution of the Trust.

### **3.17.5 Observers at Trust Board Meetings**

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

## **4. Appointment of Committees and Sub-Committees**

### **4.1 Appointment of Committees**

4.1.1 Subject to such directions as may be given by NHS England, the statutory entity that regulates NHS foundation trusts, the Trust Board may appoint Committees of the Trust.

4.1.2 The Trust Board shall determine the membership and terms of reference of Committees and Sub-Committees and shall if it requires, receive and consider reports of such Committees.

### **4.2 Joint Committees**

4.2.1 Joint Committees may be appointed by the Trust Board by joining together with one or more other Trusts, Local Authorities or health service bodies consisting of, wholly or partly of the Chair and members of the Trust or other health service bodies, or wholly of persons who are not members of the Trust or other health bodies in question.

- 4.2.2 Any Committee or joint Committee appointed under this Standing Order may, subject to such directions as may be given by the Independent Regulator or the Trust or other health bodies in question, appoint sub-Committees consisting wholly or partly of members of the Committees or joint Committee (whether or not they are members of the Trust or health bodies in question) or wholly of persons who are not members of the Trust or health bodies in question or the Committee of the Trust or health bodies in question.

#### **4.3 Applicability of Standing Orders and Standing Financial Instructions to Committees**

- 4.3.1 The Standing Orders and Standing Financial Instructions of the Trust, as far as they are applicable, shall as appropriate apply to meetings and any Committees established by the Trust. In which case the term “Chair” is to be read as a reference to the Chair or other Committee as the context permits, and the term “member” is to be read as a reference to a member or other Committee also as the context permits. There is no requirement to hold meetings of Committees, established by the Trust in public.

#### **4.4 Terms of Reference**

- 4.4.1 Each such Committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Trust Board), as the Trust Board shall decide and shall be in accordance with any legislation and regulation or direction issued by the Independent Regulator. Such terms of reference shall have effect as if incorporated into the Standing Orders.

#### **4.5 Delegation of Powers by Committees to Sub-Committees**

- 4.5.1 Where Committees are authorised to establish sub-committees they may not delegate executive powers to the sub-Committee unless expressly authorised by the Trust Board.

#### **4.6 Approval of Appointments to Committees**

- 4.6.1 The Trust Board shall approve the appointments to each of the Committees which it has formally constituted. Where the Trust Board determines, and regulations permit, that persons, who are neither members nor officers, shall be appointed to a Committee the terms of such appointment shall be within the powers of the Trust Board as defined by the Independent Regulator. The Trust Board shall define the powers of such appointees and shall agree allowances, including reimbursement for loss of earnings, and/or expenses in accordance where appropriate with national guidance.

#### **4.7 Appointments for Statutory Functions**

- 4.7.1 Where the Trust Board is required to appoint persons to a Committee and/or to undertake statutory functions and where such appointments are to operate independently of the Trust Board such appointment shall be made in accordance with the regulations and directions made with the relevant authority.

#### **4.8 Committees Established by the Trust Board**

The Committees, sub-Committees, and joint-Committees established by the Board are:

#### **4.8.1 Audit Committee**

In line with the Standing Orders, the NHS Audit Committee Handbook, the Audit Code for NHS Foundation Trusts and the Code of Governance issued by the Independent Regulator, an Audit Committee will be established and constituted to provide the Trust Board with an independent and objective review on its financial systems, financial information and compliance with laws, guidance, and regulations governing the NHS. The terms of reference will be approved by the Trust Board and reviewed on a periodic basis.

The Committee will be comprised of not less than three Non-Executive Directors, unless the Trust Board decides otherwise, of which one must have significant, recent and relevant financial experience.

#### **4.8.2 Quality Committee**

In line with the Standing Orders, a Quality Committee will be established and constituted to provide the Trust Board with a strategic overview of and assurance against clinical and quality governance, clinical risk and patient and carer experience and engagement issues. The terms of reference will be approved by the Trust Board and reviewed on a periodic basis.

The Committee will be comprised of three Non-Executive Directors; the Director of Nursing, Allied Health and Social Care Professionals; the Medical Director; and the Chief Operating Officer.

#### **4.8.3 Remuneration and Nominations Committee**

In line with Standing Orders, the Audit Code for NHS Foundation Trusts and the Code of Governance issued by the Independent Regulator, a Remuneration and Nomination Committee will be established and constituted.

The Committee will provide assurance and advise the Trust Board about appropriate remuneration and terms of service for the Chief Executive, other Executive Directors, other senior employees on a Very Senior Managers contract and conditions including:

- (i) all aspects of salary (including any performance-related elements/bonuses);
- (ii) provisions for other benefits, including pensions and cars;
- (iii) arrangements for termination of employment and other contractual terms.

The Committee will approve, to the levels outlined in the terms of reference, recruitment and retention premia awarded to any member of staff not covered by Agenda for Change where there are national recruitment and retention pressures (for example medical consultants).

The Committee will be comprised of all Non-Executive Directors (including the Chair).

#### **4.8.4 Mental Health Legislation Committee**

The Mental Health Legislation Committee is constituted as a sub-committee of the Trust Board.

The Committee will provide strategic leadership and assurance to the Trust Board pertaining to the Mental Health Act, the Mental Capacity Act and their respective Codes of Practice and other mental health related legislation and will;

- monitor, provide challenge and seek assurance of compliance with external standards relating to Mental Health Legislation.
- approve and review mental health legislation policies and protocols.
- promote and encourage joint working arrangements regarding the implementation of Mental Health Legislation with partner organisations including local authorities, clinical commission groups, acute hospital trusts, police and ambulance services.
- receive report regarding inspecting authorities and to monitor the implementation of action plans in response to any recommendations made

The Committee will be comprised of one Non-Executive Director (who is designated Chair); at least two other Non-Executive Directors (one of which is also a designated Associate Hospital Manager, if not the Chair); the Medical Director; the Chief Operating Officer; the Clinical Director; and the Director of Nursing, Allied Health and Social Care Professionals.

#### **4.8.5 Finance Committee**

The Finance and Investment Committee is constituted as a sub-committee of the Trust Board.

The Committee will provide strategic overview and provide assurance to the Trust Board that there is an effective system of governance and internal control across all financial areas and any potential investment decisions.

The Committee will;

- Scrutinise, review and endorse all financial plans prior to seeking Board approval.
- Approve the processes and timetable for annual budget setting, and budget management arrangements
- Monitor delivery of Trust's Capital Investment Programme
- Monitor progress and seek assurance on the progress against the Trust Digital Plan
- Scrutinise all business cases for new business and investment and review all tenders presented to the Committee
- Review and assess business cases to support and govern all investments, contracts and projects as set out in the committee's terms of reference.
- Review the robustness of the risk assessments underpinning financial forecasts
- Monitor delivery of the Trust's budget reduction strategy and other financial savings programmes

The committee is comprised of three Non-Executive Directors; the Director of Finance; Chief Operating Officer; and Chief Information Officer.

#### **4.8.6 Workforce and Organisational Development Committee**

The Workforce and Organisational Development Committee is constituted as a sub-committee of the Trust Board.

The Workforce and Organisational Development Committee exists to provide strategic overview and provide assurance to the Trust Board that there is an effective system of governance and internal control across workforce and organisational



development that supports the Trust to deliver its strategic objectives and provide high quality care.'

The Committee will be comprised of three Non-Executive Directors (one of whom will be the Committee Chair); the Associate Director of People and OD; the Chief Operating Officer; the Medical Director; and the Executive Director of Nursing, Allied Health and Social Care Professionals.

#### **4.8.7 Provider Collaborative Committee**

The Provider Collaborative Committee is constituted as a sub-committee of the Trust Board.

The Trust is the Lead Provider within the Humber and North Yorkshire Provider Collaborative and will hold the Lead Contract with NHS England. The Trust as Lead Provider will sub-contract with a range of healthcare providers in the delivery of:

- Child and Adolescent Mental Health In-Patient services
- Adult Low and Medium Secure services
- Adult Eating Disorder Services.

The Collaborative Committee has been established by the Trust as the Lead Provider and holds delegated responsibility to provide commissioning leadership and monitoring functions. On behalf of the Provider Collaborative and Lead Provider the Collaborative Committee will review any significant service proposals to ensure developments are in line with the assessed population needs and can be met from within the resources available within the Provider Collaborative. The Collaborative Committee will provide the Trust Board with a strategic overview of and assurance against provider collaborative issues.

The committee will be comprised of two Non-Executive Directors (one of whom will be the Committee Chair); the Associate Non-Executive Director; the Chief Executive; the Director of Finance; the Director of Nursing, Allied Health and Social Care Professionals; the Collaborative Planning Director; and the Clinical and Quality Assurance Director.

#### **4.8.8 Other Committees**

The Trust Board may also establish such other Committees as required to discharge the Trust's responsibilities.

### **5. Arrangements for the Exercise of Trust Functions by Delegation**

#### **5.1 Delegation of Functions to Committees, Officers or Other Bodies**

5.1.1 Subject to the Constitution and directions as may be given by the Independent Regulator, the Trust Board may make arrangements for the exercise, on behalf of the Trust Board, or any of its functions

- a) by a Committee, sub-Committee appointed by virtue of Standing Order 4, or by an officer of the Trust,
- b) or by another body as defined in Standing Order 5.1.2 below,
- c) in each case subject to such restrictions and conditions as the Trust thinks fit.

- 5.1.2 Where a function is delegated to a third party, the Trust has responsibility to ensure that the proper delegation is in place. In other situations, i.e. delegation to Committees, sub Committees or Officers, the Trust retains full responsibility.

## **5.2 Emergency Powers and Urgent Decisions**

- 5.2.1 The powers which the Trust Board has reserved to itself within these Standing Orders (see Standing Order 2.9) may in emergency or for an urgent decision 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 Chair shall be reported to the next formal meeting of the Trust Board in public session for formal ratification.

## **5.3 Delegation to Committees**

- 5.3.1 The Trust Board shall agree from time to time to the delegation of executive powers to be exercised by other Committees, or sub-Committees, or joint-Committees, which it has formally constituted in accordance with directions issued by the independent regulator. 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 Trust Board in respect of its sub-Committees.

## **5.4 Delegation to Officers**

- 5.4.1 Those functions of the Trust which have not been retained as reserved by the Trust Board or delegated to a Committee or sub-Committee or joint-Committee shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions he/she will perform personally and shall nominate officers to undertake the remaining functions for which he/she will still retain accountability to the Trust.
- 5.4.2 The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Trust Board subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Scheme of Delegation which shall be considered and approved by the Trust Board as indicated above.
- 5.4.3 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Trust Board of the Director of Finance to provide information and advise the Board in accordance with statutory or independent regulator requirements. Outside these statutory requirements the roles of the Director of Finance shall be accountable to the Chief Executive for operational matters.

## **5.5 Schedule of Matters Reserved to the Trust Board and Scheme of Delegation of Powers**

- 5.5.1 The arrangements made by the Board as set out in the "Scheme of Matters Reserved to the Board" in Section C shall have effect as if incorporated in these Standing Orders.

## **5.6 Duty to Report Non-Compliance with Standing Orders and Standing Financial Instructions**

- 5.6.1 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 Trust Board for action or ratification. All members of the Trust Board, Council of Governors and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive as soon as possible.
- 6. Overlap with Other Trust Policy Statements/Procedures, Regulations and Standing Financial Instructions**
- 6.1 Policy Statements: General Principles**
- 6.1.1 The Trust Board will from time to time agree and approve Policy statements/ procedures which will apply to all or specific groups of staff employed by Humber Teaching NHS Foundation Trust. The decisions to approve such policies and procedures will be recorded in an appropriate Trust Board minute and will be deemed where appropriate to be an integral part of the Trust's Standing Orders and Standing Financial Instructions.
- 6.2 Specific Policy Statements**
- 6.2.1 Notwithstanding the application of SO 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following Policy statements:
- the Standards of Business Conduct and Managing Declarations of Interests Policy for NHS Staff
  - the staff Disciplinary and Appeals Procedures adopted by the Trust both of which shall have effect as if incorporated in these Standing Orders.
- 6.3 Standing Financial Instructions**
- 6.3.1 Standing Financial Instructions adopted by the Trust Board in accordance with the Financial Regulations shall have effect as if incorporated in these Standing Orders.
- 6.4 Specific Guidance**
- 6.4.1 Notwithstanding the application of SO 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance and any other issued by the Secretary of State for Health:
- Caldicott Guardian 1997;
  - Confidentiality: NHS Code of Practice 2003;
  - Human Rights Act 1998;
  - Freedom of Information Act 2000.
- 7. Duties and Obligations of Trust Board Members/Directors and Senior Managers under the Standing Orders**
- 7.1 Declaration of Interests**
- 7.1.1 Requirements for Declaring Interests and Applicability to Trust Board**
- The Constitution, 2006 Act and the Code of Conduct and Accountability requires Trust Directors to declare interests which are relevant and material to the NHS Board of which they are a member. All existing Board Directors should declare such interests. Any Directors appointed subsequently should do so on appointment. It is a condition of employment that those holding director or director-equivalent posts provide confirmation in writing, on appointment and thereafter on demand, of their fitness to

hold such posts. Fitness to hold such a post is determined in a number of ways, including (but not exclusively) by the Trust's Provider Licence, the Health & Social Care Act 2012 (Regulated Activities) Regulation, and the Trust's Constitution.

#### **7.1.2 Interests which are Relevant and Material**

Interests which should be regarded as "relevant and material" are:

- a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies);
- b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- d) A position of authority in a charity or voluntary organisation in the field of health and social care;
- e) Any connection with a voluntary or other organisation contracting for NHS services;
- f) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the Trust including but not limited to lenders and banks
- g) Research funding/grants that may be received by an individual or their department;
- h) Interests in pooled funds that are under separate management

Any member of the Trust Board who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Order 7.3 and elsewhere) has any pecuniary interest, direct or indirect, the Trust Board member shall declare his/her interest by giving notice in writing of such fact to the Trust as soon as practicable.

#### **7.1.3 Advice on Interests**

If Trust Board members have any doubt about the relevance of an interest, this should be discussed with the Chair of the Trust, or with the Trust Secretary.

Financial Reporting Standard No 8 (issued by the Accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

#### **7.1.4 Recording of Interests in Trust 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.

#### **7.1.5 Publication of Declared Interests in Annual Report**

Directors' Directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust's annual report. The information should be kept up to date for inclusion in succeeding annual reports.

#### **7.1.6 Conflicts of Interest which Arise during the Course of a Meeting**

During the course of a Trust Board meeting, if a conflict of interest is established, the Board member concerned should withdraw from the meeting and play no part in the relevant discussion or decision. (See overlap with SO 7.3)

### **7.2 Register of Interests**

7.2.1 The Chief Executive will ensure that a Register of Interests is established to record formally declarations of interests of Trust Board. In particular the Register will include details of all directorships and other relevant and material interests (as defined in SO 7.1.2) which have been declared by both Executive and Non-Executive Trust Board members.

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

7.2.3 The Register will be available to the public in accordance with the Constitution and the Chief Executive will take reasonable steps to bring the existence of the Register to the attention of local population and to publicise arrangements for viewing it.

### **7.3 Exclusion of Chair and Members in Proceedings on Account of Pecuniary Interest**

#### **7.3.1 Definition of Terms used in Interpreting 'Pecuniary' Interest**

For the sake of clarity, the following definition of terms is to be used in interpreting this Standing Order:

- (i) "spouse" shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);
- (ii) "contract" shall include any proposed contract or other course of dealing.
- (iii) "Pecuniary interest"  
Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-

For the purpose of this Standing Order the Chair or a director shall be treated, subject to SO 7.1 as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

- a) he/she, or a nominee of his/her, 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, associate or employee of any person with whom the contract is made or proposed to be made or who has a direct pecuniary interest in the other matter under consideration.
- iv) Exception to Pecuniary interests

A person shall not be regarded as having a pecuniary interest in any contract if:-

- a) neither he/she or any person connected with him/her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or
- b) any interest that he/she or any person connected with him/her may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or
- c) those securities of any company in which he/she (or any person connected with him/her) has a beneficial interest do not exceed £5,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.

Provided however, that where paragraph (c) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2.

### **7.3.2 Exclusion in Proceedings of the Trust Board**

- (i) Subject to the following provisions of this Standing Order, if the Chair or a Director has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Board may exclude the Chair or a Director of the Trust Board from a meeting of the Board while any contract, proposed contract or other matter in which he/she has a pecuniary interest is under consideration.
- (iv) Any remuneration, compensation or allowance payable to the Chair or a Director by virtue of the 2006 Act shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a Committee or sub-Committee and to a joint Committee or sub-Committee as it applies to the Trust and applies to a member of any such Committee or sub-Committee (whether or not he/she is also a member of the Trust) as it applies to a member of the Trust.

## **7.4 Standards of Business Conduct**

### **7.4.1 Trust Policy and National Guidance**

All Trust staff must comply with the Trust's Standards of Business Conduct and Managing Conflicts of Interest Policy for NHS Staff and the national guidance produced by NHS England on Managing Conflicts of Interest.

### **7.4.2 Interest of Officers in Contracts**

- i) Any officer or employee of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in SO 7.3) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or Trust Secretary as soon as practicable.
- ii) An Officer should also declare to the Chief Executive any other employment or business or other relationship of his/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- iii) The Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff.

#### **7.4.3 Canvassing of and Recommendations by Members in Relation to Appointments**

- i) Canvassing of Members of the Trust or 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 Orders shall be included in application forms or otherwise brought to the attention of candidates.
- ii) A Member shall not solicit for any person any appointment under the Trust or recommend any person for such appointment; but this paragraph of this Standing Order shall not preclude a member from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.
- iii) Informal discussions outside appointments panels or Committees, whether solicited or unsolicited, should be declared to the panel or Committee.

#### **7.4.4 Relatives of Members or Officers**

- i) Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any member or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him/her liable to instant dismissal.
- ii) The Chair and every Director and Officer of the Trust shall disclose to the Chief Executive any relationship between himself/herself and a candidate of whose candidature that Director or Officer is aware. It shall be the duty of the Chief Executive to report to the Board any such disclosure made.
- iii) On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust Board whether they are related to any other Director or holder of any office under the Trust.
- iv) Where the relationship to a Director of the Trust is disclosed, the Standing Order headed 'Exclusion of Chair and Members in proceedings on account of pecuniary interest' (SO 7.3) shall apply.

## **8. Custody of Seal, Sealing of Documents and Signature of Documents**

### **8.1 Custody of Seal**

- 8.1.1 The common seal of the Trust shall be kept by the Chief Executive or a nominated Manager by him/her in a secure place.

## **8.2 Sealing of Documents**

- 8.2.1 Where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of a senior manager duly authorised by the Chief Executive and shall be attested by them.

## **8.3 Register of Sealing**

- 8.3.1 The Chief Executive or another manager authorised by the Chief Executive shall keep a register in which a record of the sealing of every document is entered. A report of all sealings shall be made to the Trust Board on an annual basis.

## **8.4 Signature of Documents**

- 8.4.1 Where the signature of any document will be a necessary step in legal proceedings on behalf of the Trust, it shall, unless any enactment otherwise requires or authorises be signed by the Chief Executive or any Executive Director.

In land transactions, the signing of certain supporting documents may be delegated to Managers and set out clearly in the Scheme of Delegation but will not include the main or principal documents effecting the transfer (e.g. sale/purchase agreement, lease, contracts for construction works and main warranty agreements or any document which is required to be executed as a deed).

- 8.4.2 Commercial opportunities - for example a joint venture, either contractual or corporate or a subsidiary company shall not be entered into or incorporated unless authorised by the Board.
- 8.4.3 The Executive Directors are authorised to develop commercial opportunities which may (or may not) lead to the establishment of a joint venture, either contractual or corporate or the formation of a subsidiary company. This includes authority to sign non legally binding documents that may be associated with the development of commercial opportunities prior to Board sign off, where this is required, for example Memorandum of Understanding or Articles of Association. The Executive Directors shall keep the Board apprised of the subject matter and of any non legally binding documents entered into via the Chief Executive (or nominated officer).

## **9. Miscellaneous**

### **9.1 Joint Finance Arrangements**

The Trust Board may confirm contracts to purchase from a voluntary organisation or a local authority using its powers under Section 28A of the NHS Act 1977. The Trust Board may confirm contracts to transfer money from the NHS to the voluntary sector or the health related functions of local authorities where such a transfer is to fund services to improve the health of the local population more effectively than equivalent expenditure on NHS services, using its powers under Section 28A of the NHS Act 1977, as amended by section 29 of the Health Act 1999.

See overlap with Standing Financial Instruction No. 19.3.



**SECTION C:****SCHEME OF MATTERS RESERVED TO THE TRUST BOARD AND DELEGATION**

## Part A: Decisions Reserved to the Board

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
NA	THE BOARD	<b>General Enabling Provision</b>  The Trust Board may determine any matter, for which it has delegated or statutory authority, it wishes in full session within its statutory powers under the 2006 Act, its Constitution and its Provider Licence.
NA	THE BOARD	<b><i>Regulations and Control</i></b>  <ol style="list-style-type: none"><li>1. Approve Standing Orders (SOs) of the Trust Board a Schedule of Matters Reserved to the Board and Standing Financial Instructions for the regulation of its proceedings and business.</li><li>2. Suspend Standing Orders under SO 3.13</li><li>3. Vary or amend the Standing Orders.</li><li>4. Ratify any urgent decisions taken by the Chair and Chief Executive in public session in accordance with SO 5.2</li><li>5. Approve a Scheme of Delegation of powers from the Board to Committees.</li><li>6. Require and receive the declaration of Board members' interests that may conflict with those of the Trust and determining the extent to which that member may remain involved with the matter under consideration.</li><li>7. Require and receive the declaration of officers' interests that may conflict with those of the Trust.</li><li>8. Approve arrangements for dealing with complaints.</li><li>9. Adopt the organisation structures, processes and procedures to facilitate the discharge of business by the Trust and to agree modifications thereto.</li><li>10. Receive reports from Committees including those that the Trust is required by the Independent Regulator or other regulation to establish and to take appropriate action on.</li><li>11. Confirm the recommendations of the Trust's Committees where the Committees do not have</li></ol>

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
		<p>executive powers.</p> <p>12. Approve arrangements relating to the discharge of the Trust's responsibilities as a corporate trustee for charitable funds held on trust.</p> <p>13. Establish terms of reference and reporting arrangements of all Committees and sub-Committees that are established by the Trust Board.</p> <p>14. Approve arrangements relating to the discharge of the Trust's responsibilities as a bailer for patients' property.</p> <p>15. Authorise use of the Trust seal.</p> <p>16. Ratify or otherwise instances of failure to comply with Standing Orders brought to the Chief Executive's attention in accordance with SO 5.6.</p> <p>17. Discipline members of the Board or employees who are in breach of statutory requirements or SOs.</p> <p>18. Authorisation of any long term loans to be taken out by the Board within the authorisation limits set out in SFI 20.1.6</p> <p>19. Approve the formation of any joint venture, either contractual or corporate or a subsidiary company.</p> <p>20. The granting of loans to any subsidiaries will be subject to approval by the Board regardless of value.</p>
NA	THE BOARD	<p><b>Appointments/ Dismissal</b></p> <p>1 Appoint the Senior Independent Director.</p> <p>2 Subject to the Regulatory Framework, appoint and dismiss Committees (and individual members) that are directly accountable to the Board.</p> <p>3 Appoint, appraise, discipline and dismiss Executive Directors based on recommendations of the Remuneration and Nomination Committee. (Chief Executive appointment requires Council of Governors approval)</p>
NA	THE BOARD	<p><b>Strategy, Plans and Budgets</b></p> <p>1. Set and define the strategic aims and objectives of the Trust.</p> <p>2. Identify the key strategic risks, evaluate them and ensure adequate responses are in place and are monitored.</p> <p>3. Approve strategies covering all key areas of the Trust business.</p> <p>4. Approve proposals for ensuring quality and developing clinical governance in services provided by the Trust.</p>

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
		5. Approve the Trust's Risk Management Strategy policies and procedures for risk management. 6. Approve Outline and Full Business Cases for Capital Investment. 7. Approve budgets. 8. Approve annually the Trust's proposed Organisational Development proposals. 9. Approve the Trust's Organisation Development Strategy and annual plans 10. Approve proposals for acquisition, disposal or change of use of land and/or buildings. 11. Approve Private Finance Initiative (PFI) proposals. 12. Approve the opening of bank accounts. 13. Approve proposals on individual contracts amounting to, or likely to amount to over £500,000 14. Consideration of any proposal not to tender a contract opportunity for a new health care service or a significantly changed health care service. 15. Approve Executive Management Team's proposals in individual cases for the write off of losses or making of special payments above the limits of delegation to the Chief Executive and Director of Finance (for losses and special payments) previously approved by the Trust Board. 16. Approve proposals for action on litigation against or on behalf of the Trust. 17. Review use of NHSLA risk pooling schemes (LTPS/CNST/ RPST).
	THE BOARD	<b>Policy Determination</b>  1. Ratify management policies including personnel policies incorporating the arrangements for the appointment, removal and remuneration of staff. 2. Policies will be determined and approved by the Executive Management Team, exceptionally a policy may be referred to the Board for ratification, particularly if the issues are novel, contentious, contrary to guidance or breaking new ground or if the policy is a new one.
	THE BOARD	<b>Audit</b>  1. Receive the annual management letter received from the external auditor and taking account of the advice, where appropriate, of the Audit Committee. 2. Receive an annual report from the Internal Auditor and agree necessary actions taking account of advice from the Audit Committee.
NA	THE BOARD	<b>Annual Reports and Accounts</b>

REF	THE BOARD	DECISIONS RESERVED TO THE BOARD
		<ol style="list-style-type: none"> <li>1. Receive and approval of the Trust's Annual Report and Annual Accounts.</li> <li>2. Receive and approval of the Annual Report and Accounts for funds held on trust.</li> <li>3. Receive and approve the Trust's Annual Quality Accounts</li> </ol>
NA	THE BOARD	<p><b>Monitoring</b></p> <ol style="list-style-type: none"> <li>1. Receive such reports as the Board sees fit from Committees in respect of their exercise of powers delegated.</li> <li>2. Continuously monitor the affairs of the Trust by means of the provision to the Board as the Board may require from Directors, Committees, and officers of the Trust as required.</li> <li>3. Receive reports from the Director of Finance on financial performance against all internally and externally set targets and standards.</li> <li>4. Approve and monitor the Board Assurance Framework</li> <li>5. Approve the Annual Governance Statement based on the Audit Committee's recommendation</li> <li>6. Approve the Trust's registration with the Care Quality Commission</li> </ol>

## PART B: DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
SFI 11.1.1	AUDIT COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Advise the Trust Board on internal and external audit services;</li> <li>2. Monitor compliance with Standing Orders and Standing Financial Instructions;</li> <li>3. Review schedules of losses and compensations and make recommendations to the Board.</li> <li>4. Review schedules of debtor/creditor balances</li> <li>5. Review the annual financial statements prior to submission to the Board.</li> <li>6. Review the arrangements in place to support the Assurance Framework process prepared on behalf of the Board and advise the Board accordingly.</li> </ol>
	QUALITY COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1 Provide a strategic overview of Clinical Governance, Risk and Patient Experience to the Trust Board.</li> <li>2 Co-ordinate all activities relating to Quality, Patient Safety and Patient Experience on behalf of the Trust Board.</li> <li>3 Provide an assurance to the Trust Board that risk and governance issues of all types are identified, monitored and controlled to an acceptable level.</li> <li>4 Provide a regularly reviewed and appropriate risk register to the Trust Board identifying risks to achieving the Trust's strategic objectives</li> <li>5 Ensure all areas/departments of the Trust produce a risk register that relates local risks to achieving the Trust's strategic objectives.</li> <li>6 Advise the Trust Board on significant risks and governance issues, identifying recommendations, to enable it to take appropriate action.</li> <li>7 Ensure that there is an effective mechanism for reporting significant risks and governance issues to the Trust Board in a timely manner.</li> <li>8 Provide a strategic overview of patient and carer experience, regularly reviewing outcomes and satisfaction</li> <li>9 Oversee the strategic direction of the Recovery College</li> <li>10 Monitor and advise the work of the Research and Development Committee</li> <li>11 Quality Committee will ensure that there is an integrated approach to quality and effectiveness, and patient and staff safety throughout the Trust.</li> </ol>

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
		<p>12 Ensure that work plans are produced, and a range of actions are undertaken by other committees and meetings, reporting to the Quality Committee to provide assurance to the Trust Board.</p> <p>13 Monitor trust compliance with the required standards for regulation and registration with the Care Quality Commission and other national guidelines.</p> <p>14 Implement and monitor any action required to achieve regulatory and registration standards.</p>
	REMUNERATION AND NOMINATION COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Advise the Trust Board about appropriate remuneration and terms of service for the Chief Executive, other Executive Directors, other senior employees on a Very Senior Managers contract and conditions including: <ul style="list-style-type: none"> <li>• All aspects of salary (including any performance-related elements/bonuses);</li> <li>• Provisions for other benefits, including pensions and cars;</li> <li>• Arrangements for termination of employment and other contractual terms;</li> </ul> </li> <li>2. Make recommendations to the Trust Board on the remuneration and terms of service of Executive Directors and senior employees to ensure they are fairly rewarded for their individual contribution to the Trust - having proper regard to the Trust's circumstances and performance and to the provisions of any national arrangements for such staff;</li> <li>3. Proper calculation and scrutiny of termination payments taking account of such national guidance and as is appropriate advise on and oversee appropriate contractual arrangements for such staff;</li> <li>4. Approval of any special severance payments in accordance with HM Treasury guidance;</li> <li>4 The Committee shall report in writing to the Trust Board the basis for its recommendations.</li> </ol>
	MENTAL HEALTH LEGISLATION COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Provide strategic leadership pertaining to the Mental Health Act, the Mental Capacity Act and their respective Codes of Practice and other mental health related legislation.</li> <li>2. Monitor, provide challenge and seek assurance of compliance with external standards relating to Mental Health Legislation.</li> <li>3. Approve and review Mental Health Legislation policies and protocols</li> <li>4. Promote and encourage joint working arrangements regarding the implementation of Mental Health Legislation with partner organisations including local authorities, clinical commissioning groups, acute hospital trusts, police and ambulance services.</li> <li>5. Receive reports regarding inspecting authorities and to monitor the implementation of actions plans in response to any recommendations made.</li> </ol>

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
	FINANCE & INVESTMENT COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Scrutinise, review and endorse all financial plans prior to seeking Board approval.</li> <li>2. Approve the processes and timetable for annual budget setting, and budget management arrangements</li> <li>3. Monitor delivery of Trust's Capital Investment Programme</li> <li>4. Review the robustness of the risk assessments underpinning financial forecasts</li> <li>5. Monitor delivery of the Trust's budget reduction strategy and other financial savings programmes</li> <li>6. Review and assess business cases for: <ul style="list-style-type: none"> <li>• Capital expenditure over £500k</li> <li>• New business development projects with an annual value in excess of £500k in total</li> <li>• Any reconfiguration project which has a financial and/or resource implication over £500k per annum</li> <li>• Leases, contracts or agreements with revenue, capital and/or resource investment/commitment in excess of £500k per annum</li> <li>• The purchase or sale of any property</li> <li>• The purchase or sale of any equipment above £250k</li> <li>• All Borrowing or investment arrangements</li> <li>• Horizon scanning regarding business opportunities.</li> <li>• To periodically consider strategic risks to business and ensure these are reflected and mitigated within any business cases.</li> </ul> </li> </ol>
	WORKFORCE AND ORGANISATIONAL DEVELOPMENT COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Provide oversight and assurance to the Board in relation to robust processes for the effective management of Workforce and Organisational Development;</li> <li>2. Be assured on the management of the high operational risks on the corporate risk register which relate to workforce and organisational development and ensure the Board is kept informed of significant risks and mitigation plans, in a timely manner.</li> <li>3. Be assured of the Trust's response to all relevant Directives, national standard, policies, reports, reviews and best practice as issued by the Department of Health, NHS Improvement and other regulatory bodies / external agencies to gain assurance that they are appropriately reviewed and actions are being undertaken and embedded.</li> <li>4. To be assured that the views of staff are captured, understood and responded to.</li> <li>5. Scrutinise the robustness of the arrangements for and assure compliance with the Trust's statutory responsibilities for equality and diversity, staff health and well being, safe working for junior doctors and freedom to speak up.</li> </ol>

REF	COMMITTEE	DECISIONS/DUTIES DELEGATED BY THE BOARD TO COMMITTEES
	COLLABORATIVE COMMITTEE	<p>The Committee will:</p> <ol style="list-style-type: none"> <li>1. Provide commissioning leadership and monitoring functions</li> <li>2. Provide assurance to the Board on matters of financial performance</li> <li>3. Undertake contractual monitoring, financial and performance management of the Provider Collaborative to deliver the HCV aims</li> <li>4. Monitoring performance including quality assurance on outcomes, experience, safety, activity and finance.</li> <li>5. Contract management, including quality assurance across NHS and independent sector.</li> <li>6. Appropriate reporting to Humber and North Yorkshire – Specialised Mental Health and Learning Disability - Provider Collaborative Oversight Group and NHSE/I (including nationally required returns)</li> </ol>



## PART C: SCHEME OF DELEGATION DERIVED FROM THE ACCOUNTABLE OFFICER MEMORANDUM

DELEGATED TO	DUTIES DELEGATED
CHIEF EXECUTIVE	Accountable through NHS FT Accounting Officer to Parliament for stewardship of Trust resources. NHS Foundation Trust Accounting Officer memorandum issued by the Independent Regulator is the reference document.
CHIEF EXECUTIVE AND DIRECTOR OF FINANCE	Ensure the accounts of the Trust are prepared under principles and in a format directed by the Independent Regulator. Accounts must disclose a true and fair view of the Trust's income and expenditure and its state of affairs.  Sign the accounts on behalf of the Trust Board.
CHIEF EXECUTIVE	Sign a statement in the accounts outlining responsibilities as the Accountable Officer.  Sign a statement in the accounts outlining responsibilities in respect of Internal Control.
CHIEF EXECUTIVE	Ensure effective management systems that safeguard public funds and assist the Trust Chair to implement requirements of corporate governance including ensuring managers: <ul style="list-style-type: none"> <li>• “have a clear view of their objectives and the means to assess achievements in relation to those objectives</li> <li>• be assigned well defined responsibilities for making best use of resources</li> <li>• have the information, training and access to the expert advice they need to exercise their responsibilities effectively.”</li> </ul>
CHIEF EXECUTIVE	Implement requirements of corporate governance.
CHIEF EXECUTIVE	Achieve value for money from the resources available to the Trust and avoid waste and extravagance in the organisation's activities. Follow through the implementation of any recommendations affecting good practice as set out on reports from such bodies as the Audit Commission and the National Audit Office (NAO).
DIRECTOR OF FINANCE	Operational responsibility for effective and sound financial management and information.
CHIEF EXECUTIVE	Primary duty to see that Director of Finance discharges this function.
CHIEF EXECUTIVE	Ensuring that expenditure by the Trust complies with Parliamentary requirements.
CHIEF EXECUTIVE and DIRECTOR OF FINANCE	The Chief Executive, supported by the Director of Finance, to ensure appropriate advice is given to the Trust Board and the Council of Governors on all matters of probity, regularity, prudent and economical administration, efficiency and effectiveness.

DELEGATED TO	DUTIES DELEGATED
CHIEF EXECUTIVE	If the Chief Executive considers the Trust Board, the Council of Governors or the Chair is doing something that might infringe probity or regularity, the Chief Executive should set this out in writing to the Chair, the Council of Governors and the Trust Board. If the matter is unresolved, the Chief Executive should ask the Audit Committee to inquire and if necessary inform the Independent Regulator of the position, if possible before the decision is taken so that the Independent Regulator can intervene if appropriate.
CHIEF EXECUTIVE	If the Trust Board is contemplating a course of action that raises an issue not of formal propriety or regularity but affects the Chief Executive's responsibility for value for money, the Chief Executive should draw the relevant factors to the attention of the Trust Board and the Council of Governors. If the outcome is that you are overruled it is normally sufficient to ensure that your advice and the overruling of it are clearly apparent from the papers. Exceptionally, the Chief Executive should inform the Independent Regulator as appropriate. In such cases the Chief Executive should, as a member of the Trust Board, vote against the course of action rather than merely abstain from voting.

## PART D: SCHEME OF DELEGATION

DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
THE BOARD	Approve procedure for declaration of hospitality and sponsorship.
THE BOARD	Ensure proper and widely publicised procedures for voicing complaints, concerns about misadministration, breaches of the NHS Foundation Trust Code of Governance, the Code of Conduct, and other ethical concerns.
ALL BOARD MEMBERS	Subscribe to the NHS Foundation Trust Code of Governance and Code of Conduct.
THE BOARD	Board members share corporate responsibility for all decisions of the Trust Board.
CHAIR AND NON-EXECUTIVE MEMBERS	The Chair and Non-Executive Directors are responsible for monitoring the executive management of the organisation and are responsible to the Independent Regulator for the discharge of those responsibilities.
THE BOARD	<p>The Trust Board has six key functions for which it is held accountable by the Independent Regulator:-</p> <ol style="list-style-type: none"> <li>1. to ensure effective financial stewardship through value for money, financial control and financial planning and strategy;</li> <li>2. to ensure that high standards of corporate governance and personal behaviour are maintained in the conduct of the business of the whole organisation;</li> <li>3. to appoint, appraise and remunerate senior executives;</li> <li>4. to ratify the strategic direction of the organisation within the overall policies and priorities of the Government and the NHS, define its annual and longer term objectives and agree plans to achieve them;</li> <li>5. to oversee the delivery of planned results by monitoring performance against objectives and ensuring corrective action is taken when necessary;</li> <li>6. to ensure effective dialogue between the organisation, the Council of Governors, members and the local community on its plans and performance and that these are responsive to the community's needs.</li> </ol>
THE BOARD	<p>It is the Trust Board's duty to:</p> <ol style="list-style-type: none"> <li>1. act within the Regulatory Framework and other statutory financial and other constraints;</li> <li>2. be clear what decisions and information are appropriate to the Board and draw up Standing Orders, a Schedule of Decisions Reserved to the Board and Standing Financial Instructions to reflect these,</li> <li>3. ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives for the main programmes of action and for performance against programmes to be monitored and senior executives held to account;</li> </ol>

DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
	<ol style="list-style-type: none"> <li>4. establish performance and quality measures that maintain the effective use of resources and provide value for money;</li> <li>5. specify its requirements in organising and presenting financial and other information succinctly and efficiently to ensure the Board can fully undertake its responsibilities;</li> <li>6. establish an Audit Committee and Remuneration and Nominations Committee on the basis of formally agreed terms of reference that set out the membership of the sub-Committee, the limit to their powers, and the arrangements for reporting back to the main Board.</li> </ol>
CHAIR	<p>It is the Chair's role to:</p> <ol style="list-style-type: none"> <li>1. provide leadership to the Board, the Council of Governors and to ensure the two bodies work effectively together;</li> <li>2. enable all Board members to make a full contribution to the Board's affairs and ensure that the Board acts as a team;</li> <li>3. ensure that key and appropriate issues are discussed by the Board in a timely manner,</li> <li>4. ensure the Board has adequate support and is provided efficiently with all the necessary data on which to base informed decisions;</li> <li>5. lead Non-Executive Board members through a formally appointed Remuneration and Nominations Committee of the main Board on the appointment, appraisal and remuneration of the Chief Executive and (with the latter) other Executive Board members;</li> <li>6. appoint Non-Executive Board members to an Audit Committee of the main Board;</li> <li>7. advise the Council of Governors on the performance of Non-Executive Board members via the Appointments, Terms and Conditions Committee</li> </ol>
CHIEF EXECUTIVE	<p>The Chief Executive is accountable to the Chair and Non-Executive Directors of the Trust Board for ensuring that its decisions are implemented, that the organisation works effectively, in accordance with Government policy and public service values and for the maintenance of proper financial stewardship.</p> <p>The Chief Executive should be allowed full scope, within clearly defined delegated powers, for action in fulfilling the decisions of the Trust Board.</p> <p>The other duties of the Chief Executive, as Accountable Officer, are laid out in the NHS Foundation Trust Accountable Officer Memorandum.</p>
NON-EXECUTIVE DIRECTORS	<p>Non-Executive Directors are appointed (and removed) by the Council of Governors to bring independent judgement to bear on issues of strategy, performance, key appointments and accountability through the Department of Health to Ministers, the Independent Regulator and to the local community.</p>

DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
CHAIR AND DIRECTORS	Declaration of conflict of interests.
THE TRUST BOARD	NHS Boards must comply with legislation and guidance issued by the Independent Regulator and the Department of Health on behalf of the Secretary of State, respect agreements entered into by themselves or on their behalf and establish terms and conditions of service that are fair to the staff and represent good value for taxpayers' money.
ASSOCIATE HOSPITAL MANAGERS	Under Section 23(6) of the Mental Health Act 1983 the Trust delegates its power of discharge to individuals authorised by the Board for that purpose.
THE TRUST BOARD	Responsible for ensuring that the requirements of the Mental Health Act are fully met and that there are sufficient Associate Hospital Managers to fulfil the requirements in terms of consideration for discharge.
Non-Executive Director with responsibility for mental health legislation	Oversees the appointment, review, and termination of Associate Hospital Managers

## PART E: SCHEME OF DELEGATION FROM STANDING ORDERS

SO REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
3.10	CHAIR	Final authority in interpretation of Standing Orders (SOs).
2.2	COUNCIL OF GOVERNORS*	Appointment of Chair and other Non-Executive Directors
2.4	COUNCIL OF GOVERNORS*	Appointment of Deputy Chair
2.11.1	COUNCIL OF GOVERNORS	Approve the appointment and dismissal of External Auditors
3.1	CHAIR	Call meetings.
3.9	CHAIR	Chair all Board meetings and associated responsibilities.
3.10	CHAIR	Give final ruling in questions of order, relevancy and regularity of meetings.
3.12	CHAIR	Having a second or casting vote
3.13	BOARD	Suspension of Standing Orders
3.13	AUDIT COMMITTEE	Audit Committee to review every decision to suspend Standing Orders (power to suspend Standing Orders is reserved to the Board)
3.14	BOARD	Variation or amendment of Standing Orders
4.5	BOARD	Formal delegation of powers to sub-committees, joint Committees and approval of their Constitution and terms of reference
4.6	BOARD	Approve appointments to each of the Committees it has formally constituted
5.2	CHAIR & CHIEF EXECUTIVE	The powers which the Trust Board has retained to itself within these Standing Orders may in emergency be exercised by the Chair and Chief Executive after having consulted at least two Non-Executive Directors.

SO REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
5.4	CHIEF EXECUTIVE	The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals that shall be considered and approved by the Board, subject to any amendment agreed during the discussion.
5.6	ALL	Disclosure of non-compliance with Standing Orders to the Chief Executive as soon as possible.
7.1	BOARD	Declare relevant and material interests.
7.2	CHIEF EXECUTIVE	Maintain Register(s) of Interests.
7.4	ALL STAFF	Comply with national guidance contained in <i>Managing Conflicts of Interest in the NHS - Guidance for staff and organisations</i> ” (Publications Gateway Reference: 06419)
7.4	ALL	Disclose relationship between self and candidate for staff appointment. (Chief Executive to report the disclosure to the Board.)
8.1/8.3	CHIEF EXECUTIVE	Keep Seal in safe place and maintain a register of Sealing.
8.4	CHIEF EXECUTIVE OR EXECUTIVE DIRECTOR	Approve and sign all documents which will be necessary in legal proceedings.

*\*A full list of Statutory Roles and Responsibilities of the Council of Governors is appended to this document.*

**PART F: SCHEME OF DELEGATION FROM STANDING FINANCIAL INSTRUCTIONS (SFIs)**

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
10.1.3	DIRECTOR OF FINANCE	Approval of all financial procedures.
10.1.4	DIRECTOR OF FINANCE	Advice on interpretation or application of SFIs.
10.1.5	ALL MEMBERS OF THE BOARD AND EMPLOYEES	Have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.
10.2.1	CHIEF EXECUTIVE	Responsible as the Accountable Officer to ensure financial targets and obligations are met and have overall responsibility for the System of Internal Control.
10.2.2	CHIEF EXECUTIVE & DIRECTOR OF FINANCE	Accountable for financial control but will, as far as possible, delegate their detailed responsibilities.
10.2.3	CHIEF EXECUTIVE DIRECTOR OF FINANCE	Responsible for: a) Implementing the Trust's financial policies and coordinating corrective action; b) Maintaining an effective system of financial control including ensuring detailed financial procedures and systems are prepared and documented; c) Ensuring that sufficient records are maintained to explain Trust's transactions and financial position; d) Providing financial advice to members of the Board and staff; e) Maintaining such accounts, certificates etc as are required for the Trust to carry out its statutory duties.
10.2.4	CHIEF EXECUTIVE	To ensure all Board members, officers and employees, present and future, are notified of and understand Standing Financial Instructions.
10.2.5	CHIEF EXECUTIVE	Ensure that any contractor or employee of a contractor who is empowered by the Trust to commit the Trust to expenditure or who is authorised to obtain income are made aware of these instructions and their requirement to comply.
10.2.6	ALL MEMBERS OF THE BOARD AND EMPLOYEES	Responsible for security of the Trust's property, avoiding loss, exercising economy and efficiency in using resources and conforming to Standing Orders, Financial Instructions and financial procedures.



<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
11.1.1	AUDIT COMMITTEE	Provide independent and objective view on internal control and probity.
11.1.2	CHAIR	Raise the matter at the Trust Board meeting where the Audit Committee considers there is evidence of ultra vires transactions or improper acts.
11.1.3 & 11.2.1	DIRECTOR OF FINANCE	Ensure an adequate internal audit service, for which he/she is accountable, is provided (and involve the Audit Committee in the selection process when/if an internal audit service provider is changed.)  Ensure the annual report is prepared for consideration by the Audit Committee.
11.2.1	DIRECTOR OF FINANCE	Decide at what stage to involve police in cases of misappropriation and other irregularities not involving fraud or corruption.
11.3	HEAD OF INTERNAL AUDIT	Review, appraise and report in accordance with NHS Internal Audit Manual Audit Code for NHS Foundation Trusts, NHS Foundation Trust Reporting Manual, the NHS Foundation Trust Accounting Officer Memorandum and best practice.
11.4		Ensure cost-effective External Audit and comply with the Audit Code for NHS Foundation Trusts.
11.5	CHIEF EXECUTIVE & DIRECTOR OF FINANCE	Monitor and ensure compliance with the Audit Code for NHS Foundation Trusts guidance on fraud and corruption including the appointment of the Local Counter Fraud Specialist (LCFS).
11.6	CHIEF EXECUTIVE	Monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management including appointment of the Local Security Management Specialist.
12.1.2 & 12.1.3	DIRECTOR OF FINANCE	Submit budgets to the Board for approval.  Monitor performance against budget; submit to the Board financial estimates and forecasts.
12.1.6	DIRECTOR OF FINANCE	Ensure adequate training is delivered on an ongoing basis to budget holders.
12.2.1	CHIEF EXECUTIVE	Delegate budget to budget holders.
12.2.2	CHIEF EXECUTIVE & BUDGET HOLDERS	Must not exceed the budgetary total or virement limits set by the Board.

SFI REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
12.3.1	DIRECTOR OF FINANCE	Devise and maintain systems of budgetary control.
12.3.2	CHIEF EXECUTIVE/ BUDGET HOLDERS	Ensure that <ul style="list-style-type: none"> <li>a) any likely overspend or reduction of income that cannot be met from virement is incurred without prior consent of the Board;</li> <li>b) approved budget is not used for any other than specified purpose subject to rules of virement;</li> <li>c) no permanent employees are appointed without the approval of the Chief Executive other than those provided for within available resources and manpower establishment as approved by the Trust Board</li> </ul>
12.3.4	CHIEF EXECUTIVE	Compile and submit to the Trust Board an Annual Plan which takes into account financial targets and forecast limits of available resources. This will contain: <ul style="list-style-type: none"> <li>• a statement of the significant assumptions on which the plan is based;</li> <li>• details of major changes in workload, delivery of services or resources required to achieve the plan.</li> </ul>
12.3.4	CHIEF EXECUTIVE	Identify and implement cost improvements and income generation activities in line with the Strategic Plan
12.5.1	CHIEF EXECUTIVE	Submit monitoring returns
13.1	DIRECTOR OF FINANCE	Preparation of annual accounts and reports.
14.1	DIRECTOR OF FINANCE	Managing banking arrangements, including provision of banking services, operation of accounts, preparation of instructions and list of cheque signatories.  (The Board approves the arrangements.)
15.	DIRECTOR OF FINANCE	Income systems, including system design, prompt banking, review and approval of fees and charges, debt recovery arrangements, design and control of receipts, provision of adequate facilities and systems for employees whose duties include collecting or holding cash.
15.2.3	ALL EMPLOYEES	Duty to inform Director of Finance of money due from transactions which they initiate/deal with.
16.	CHIEF EXECUTIVE	Tendering and contract procedure.

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
16.6.3	CHIEF EXECUTIVE	Waive formal tendering procedures.
16.6.3	CHIEF EXECUTIVE	Report waivers of tendering procedures to the Board.
16.7.2	CHIEF EXECUTIVE	Responsible for the receipt, endorsement and safe custody of tenders received.
16.7.3	CHIEF EXECUTIVE	Shall maintain a register to show each set of competitive tender invitations dispatched.
16.7.4	CHIEF EXECUTIVE AND DIRECTOR OF FINANCE	Where one tender is received will assess for value for money and fair price.
16.7.7	CHIEF EXECUTIVE CHAIR	No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive and Chair
16.7.11	CHIEF EXECUTIVE	Shall ensure that appropriate checks are carried out as to the technical and financial capability of those firms that are invited to tender or quote.
16.7.11	DIRECTOR OF FINANCE	Where a supplier is chosen that is not on the approved list the reason shall be recorded in writing to the Chief Executive.
16.8.2	CHIEF EXECUTIVE	The Chief Executive or his nominated officer should evaluate the quotation and select the quote which gives the best value for money.
16.8.4	CHIEF EXECUTIVE or DIRECTOR OF FINANCE	No quotation shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive.
16.10	CHIEF EXECUTIVE	The Chief Executive shall demonstrate that the use of private finance represents value for money and genuinely transfers risk to the private sector.
16.10	BOARD	All PFI proposals must be agreed by the Board.
16.11	CHIEF EXECUTIVE	The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the Trust.
16.12	CHIEF EXECUTIVE	The Chief Executive shall nominate officers with delegated authority to enter into contracts of

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
		employment, regarding staff, agency staff or temporary staff service contracts.
16.17	CHIEF EXECUTIVE	The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis.
16.17.5	CHIEF EXECUTIVE	The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the Trust.
17.1.1	CHIEF EXECUTIVE	Must ensure the Trust enters into suitable Service Level Agreements (SLAs) with service commissioners for the provision of NHS services
17.2	CHIEF EXECUTIVE	As the Accountable Officer, ensure that regular reports are provided to the Board detailing actual and forecast income from the SLA
18.1.1	BOARD	Establish a Remuneration & Nomination Committee
18.1.2	REMUNERATION & NOMINATION COMMITTEE	Advise the Board on and make recommendations on the remuneration and terms of service of the Chief Executive, Executive members and senior employees to ensure they are fairly rewarded having proper regard to the Trust's circumstances and any national agreements; Monitor and evaluate the performance of individual senior employees; Advise on and oversee appropriate contractual arrangements for such staff, including proper calculation and scrutiny of termination payments.
18.1.3	REMUNERATION & NOMINATION COMMITTEE	Report in writing to the Trust Board its advice and its bases about remuneration and terms of service of Directors and senior employees.
18.2.2	CHIEF EXECUTIVE	Approval of variation to funded establishment of any department.
18.3	CHIEF EXECUTIVE	Staff, including agency staff, appointments and re-grading.
18.4.1 and 18.4.2	DIRECTOR OF FINANCE/DIRECTOR OF WORKFORCE & ORGANISATIONAL DEVELOPMENT	Payroll: a) specifying timetables for submission of properly authorised time records and other notifications; b) final determination of pay and allowances; c) making payments on agreed dates; d) agreeing method of payment; e) issuing instructions (as listed in SFI 18.4.3).
18.4.4	NOMINATED MANAGERS	Submit time records in line with timetable. Submitting termination forms in prescribed form and on time.

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
18.4.5	DIRECTOR OF FINANCE/DIRECTOR OF WORKFORCE & ORGANISATIONAL DEVELOPMENT	Ensure that the chosen method for payroll processing is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.
18.5	NOMINATED MANAGER	Ensure that all employees are issued with a Contract of Employment in a form approved by the Board and which complies with employment legislation; and Deal with variations to, or termination of, contracts of employment.
19.1.1	CHIEF EXECUTIVE	Determine, and set out, level of delegation of non-pay expenditure to budget managers, including a list of managers authorised to place requisitions, the maximum level of each requisition and the system for authorisation above that level.
19.1.2	CHIEF EXECUTIVE	Set out procedures on the seeking of professional advice regarding the supply of goods and services.
19.2.1	REQUISITIONER	In choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Trust. In so doing, the advice of the Trust's adviser on supply shall be sought.
19.2.2	DIRECTOR OF FINANCE	Shall be responsible for the prompt payment of accounts and claims.
19.2.2.1	DIRECTOR OF FINANCE	<ul style="list-style-type: none"> <li>a) Advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in standing orders and regularly reviewed;</li> <li>b) Prepare procedural instructions [where not already provided in the Scheme of Delegation or procedure notes for budget holders] on the obtaining of goods, works and services incorporating the thresholds;</li> <li>c) Be responsible for the prompt payment of all properly authorised accounts and claims;</li> <li>d) Be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable;</li> <li>e) A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment;</li> <li>f) Instructions to employees regarding the handling and payment of accounts within the Finance</li> </ul>

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
		Department; g) Be responsible for ensuring that payment for goods and services is only made once the goods and services are received
19.2.3	APPROPRIATE EXECUTIVE DIRECTOR	Make a written case to support the need for a prepayment.
19.2.4	DIRECTOR OF FINANCE	Approve proposed prepayment arrangements.
19.2.5	BUDGET HOLDER	Ensure that all items due under a prepayment contract are received (and immediately inform the Director of Finance if problems are encountered).
19.2.6	CHIEF EXECUTIVE/DIRECTOR OF FINANCE	Authorise who may use and be issued with official orders.
19.2.7	MANAGERS AND OFFICERS	Ensure that they comply fully with the guidance and limits specified by the Director of Finance.
19.2.8	CHIEF EXECUTIVE DIRECTOR OF FINANCE	Ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within CONCODE and ESTATECODE. The technical audit of these contracts shall be the responsibility of the relevant Director.
19.3	DIRECTOR OF FINANCE	Lay down procedures for payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act.
20.1.1	DIRECTOR OF FINANCE	The Director of Finance will advise the Board on the Trust's ability to pay dividend on PBC, and any proposed borrowing limits set by its Provider Licence and report, periodically, concerning the PDC debt and all loans and overdrafts.
20.1.2	BOARD	Approve a list of employees authorised to make short term borrowings on behalf of the Trust. (This must include the Chief Executive and Director of Finance.)
20.1.3	DIRECTOR OF FINANCE	Prepare detailed procedural instructions concerning applications for loans and overdrafts.
20.1.5	CHIEF EXECUTIVE OR DIRECTOR OF FINANCE	Be on an authorising panel comprising one other member for short term borrowing approval, following prior agreement of the board

SFI REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
20.2.2	DIRECTOR OF FINANCE	Will advise the Board on investments and report, periodically, on performance of same and report to Monitor on any major investments that will affect the financial risk rating of the Trust.
20.2.3	DIRECTOR OF FINANCE	Prepare detailed procedural instructions on the operation of investments held.
21.1.1	DIRECTOR OF FINANCE	Ensure that Board members are aware of the Financial Framework and ensure compliance
22	CHIEF EXECUTIVE	Capital investment programme: a) ensure that there is adequate appraisal and approval process for determining capital expenditure priorities and the effect that each has on plans b) responsible for the management of capital schemes and for ensuring that they are delivered on time and within cost; c) ensure that capital investment is not undertaken without availability of resources to finance all revenue consequences; d) ensure that a business case is produced for each proposal.
22.1.2	DIRECTOR OF FINANCE	Certify professionally the costs and revenue consequences detailed in the business case for capital investment.
22.1.3	CHIEF EXECUTIVE	Issue procedures for management of contracts involving stage payments.
22.1.4	DIRECTOR OF FINANCE	Assess the requirement for the operation of the construction industry taxation deduction scheme.
22.1.5	DIRECTOR OF FINANCE	Issue procedures for the regular reporting of expenditure and commitment against authorised capital expenditure.
22.1.6	CHIEF EXECUTIVE	Issue manager responsible for any capital scheme with authority to commit expenditure, authority to proceed to tender and approval to accept a successful tender. Issue a Scheme of Delegation for capital investment management.
22.1.7	DIRECTOR OF FINANCE	Issue procedures governing financial management, including variation to contract, of capital investment projects and valuation for accounting purposes.
22.2.1	DIRECTOR OF FINANCE	Demonstrate that the use of private finance represents value for money and genuinely transfers significant risk to the private sector.
22.2.1	BOARD	Proposal to use PFI must be specifically agreed by the Board.
22.3.1	CHIEF EXECUTIVE	Maintenance of asset registers (on advice from the Director of Finance).

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
22.3.5	DIRECTOR OF FINANCE	Approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
22.3.8	DIRECTOR OF FINANCE	Calculate and pay capital charges in accordance with Monitor requirements.
22.4.1	CHIEF EXECUTIVE	Overall responsibility for fixed assets.
22.4.2	DIRECTOR OF FINANCE	Approval of fixed asset control procedures.
22.4.4	BOARD, EXECUTIVE MEMBERS AND ALL SENIOR STAFF	Responsibility for security of Trust assets including notifying discrepancies to the Director of Finance, and reporting losses in accordance with Trust procedure.
23.2	CHIEF EXECUTIVE	Delegate overall responsibility for control of stores (subject to Director of Finance responsibility for systems of control). Further delegation for day-to-day responsibility subject to such delegation being recorded.
23.2.1	DIRECTOR OF FINANCE	Responsible for systems of control over stores and receipt of goods.
23.2.1	DESIGNATED PHARMACEUTICAL OFFICER	Responsible for controls of pharmaceutical stocks
23.2.1	DESIGNATED ESTATES OFFICER	Responsible for control of stocks of fuel oil and coal.
23.2.2	NOMINATED OFFICERS	Security arrangements and custody of keys
23.2.3	DIRECTOR OF FINANCE	Set out procedures and systems to regulate the stores.
23.2.4	DIRECTOR OF FINANCE	Agree stocktaking arrangements.
23.2.5	DIRECTOR OF FINANCE	Approve alternative arrangements where a complete system of stores control is not justified.
23.2.6	DIRECTOR OF FINANCE	Approve system for review of slow moving and obsolete items and for condemnation, disposal and replacement of all unserviceable items.
23.2.6	NOMINATED OFFICERS	Operate system for slow moving and obsolete stock, and report to Director of Finance evidence of



<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
		significant overstocking.
23.3.1	CHIEF EXECUTIVE	Identify persons authorised to requisition and accept goods from NHS Supplies stores.
24.1.1	DIRECTOR OF FINANCE	Prepare detailed procedures for disposal of assets including condemnations and ensure that these are notified to managers.
24.2.1	DIRECTOR OF FINANCE	Prepare procedures for recording and accounting for losses, special payments and informing police in cases of suspected arson or theft.
24.2.2	ALL STAFF	Discovery or suspicion of loss of any kind must be reported immediately to either head of department or nominated officer. The head of department / nominated officer should then inform the Chief Executive and Director of Finance.
24.2.2	DIRECTOR OF FINANCE	Where a criminal offence is suspected, the Director of Finance must inform the police if theft or arson is involved. In cases of fraud and corruption the Director of Finance must inform the relevant LCFS and NHS Counter Fraud Authority.
24.2.2	DIRECTOR OF FINANCE	Notify NHS Counter Fraud Authority and External Audit
24.2.3	DIRECTOR OF FINANCE	Notify the Board and External Auditor of losses caused theft, arson, neglect of duty or gross carelessness (unless trivial).
24.2.4	BOARD	Approve write off of losses (within limits delegated by H M Treasury's Managing Public Money).
24.2.6	DIRECTOR OF FINANCE	Consider whether any insurance claim can be made.
24.2.7	DIRECTOR OF FINANCE	Maintain a losses and special payments register.
25.1.1	DIRECTOR OF FINANCE	Responsible for accuracy and security of computerised financial data.
25.1.2	DIRECTOR OF FINANCE	Ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation assurances of adequacy must be obtained from them prior to implementation.
25.2.1	RELEVANT OFFICERS	Send details of the outline design of the computer system to the Director of Finance.
25.3	DIRECTOR OF FINANCE	Ensure that contracts with other bodies for the provision of computer services for financial applications clearly define responsibility of all parties for security, privacy, accuracy, completeness and timeliness of

SFI REF	DELEGATED TO	AUTHORITIES/DUTIES DELEGATED
		data during processing, transmission and storage, and allow for audit review.  Seek periodic assurances from the provider that adequate controls are in operation.
25.4	DIRECTOR OF FINANCE	Ensure that risks to the Trust from use of IT are identified and considered and that disaster recovery plans are in place.
25.5	DIRECTOR OF FINANCE	Where computer systems have an impact on corporate financial systems satisfy himself that:  a) systems acquisition, development and maintenance are in line with corporate policies; b) data assembled for processing by financial systems is adequate, accurate, complete and timely, and that a management trail exists; c) Director of Finance and staff have access to such data;  Such computer audit reviews are being carried out as are considered necessary.
25.1.3	DIRECTOR OF NURSING	Shall publish and maintain a Freedom of Information (FOI) Scheme.
26.2	CHIEF EXECUTIVE	Responsible for ensuring patients and guardians are informed about patients' money and property procedures on admission.
26.3	DIRECTOR OF FINANCE	Provide detailed written instructions on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of.
26.6	DEPARTMENTAL MANAGERS	Inform staff of their responsibilities and duties for the administration of the property of patients.
27.1	DIRECTOR OF FINANCE	Shall ensure that each trust fund which the Trust is responsible for managing is managed appropriately.
28	CHIEF EXECUTIVE	Ensure all staff are made aware of the Trust policy on the acceptance of gifts and other benefits in kind by staff
29	CHIEF EXECUTIVE	Ensure retention of document procedures in accordance with NHS Records Management: Code of Practice

<b>SFI REF</b>	<b>DELEGATED TO</b>	<b>AUTHORITIES/DUTIES DELEGATED</b>
30.1	CHIEF EXECUTIVE	Ensure a Risk Management programme is in place
30.1	BOARD	Approve and monitor Risk Management programme.
30.2	BOARD	Decide whether the Trust will use the risk pooling schemes administered by the NHS Litigation Authority or self-insure for some or all of the risks (where discretion is allowed). Decisions to self-insure should be reviewed annually.
30.4.1	DIRECTOR OF FINANCE	<p>Where the Board decides to use the risk pooling schemes administered by the NHS Litigation Authority the Director of Finance shall ensure that the arrangements entered into are appropriate and complementary to the risk management programme. The Director of Finance shall ensure that documented procedures cover these arrangements.</p> <p>Where the Board decides not to use the risk pooling schemes administered by the NHS Litigation Authority for any one or other of the risks covered by the schemes, the Director of Finance shall ensure that the Trust Board is informed of the nature and extent of the risks that are self insured as a result of this decision. The Director of Finance will draw up formal documented procedures for the management of any claims arising from third parties and payments in respect of losses that will not be reimbursed.</p>
30.4.1	DIRECTOR OF FINANCE	Ensure documented procedures cover management of claims and payments below the deductible.

## PART G: SCHEME OF BUDGETARY DELEGATION

<b>Value (annual) Note: If total contract value exceeds the relevant Procurement Act threshold then formal tendering procedures must be followed</b>	<b>Process</b>
Up to £9,999	At discretion of budget holder/Purchasing officer
£10,000 to £74,999 (Goods & Services)	3 or more quotes or non-competitive quotation only in permissible circumstances
£10,000 to £249,999 (Works)	3 or more quotes
£75,000 up to Procurement Act threshold (Goods & Services)	Local tendering process
£250,000 up to Procurement Act threshold (Works)	Local tendering process
For any Goods, Services and Works above Procurement Act threshold	Formal tendering process in accordance with Procurement Act

**The above applies to contracts for goods, non-health care services and works unless using a framework agreement (SFI 21.1.2 applies) compliantly in which case the above do not apply.**

<b>Non-Pay Revenue and Capital Expenditure/Requisitioning/Ordering/Payment Of Goods. Contracts (Including Income) and Non Pay Revenue. Stock/Non-stock requisitions</b>	
Financial Limit <i>(where this relates to contracts over more than one year, the annual value is delegated as per below)</i>	Delegated to
Up to £9,999	Senior Manager/other staff on authorised signatory list up to their delegated limit
£10,000 to £24,999	Divisional General Manager
£25,000 to £49,999	Director
£50,000 to £249,999	Director of Finance
£250,000 to £750,000	Chief Executive*
Over £750,000	Trust Board

\*during periods of absence of the Chief Executive (planned and unplanned) the authorisation limits will be delegated to the Director of Finance in the first instance, and then to the Deputy Chief Executive (in any instances where both the Chief Executive and Director of Finance are absent at the same time).

<b>Authorisation of Losses and Special Payments</b>		
Delegated Matter	Up to £5,000	£5,000 to £49,999
Losses of cash	Director of Finance or Trust Secretary	Chief Executive and Director of Finance

Drawing Down of Pre-Arranged Loans		
	1 <sup>st</sup> Signatory	2 <sup>nd</sup> Signatory
Any pre-arranged loan	Chief Executive or Director of Finance (or person acting up*)	Deputy Director of Finance or Executive Director

Short term loans		
Short term borrowing up to £499,000	With the authority of two members of an authorised panel, one of which must be the Chief Executive or Director of Finance	The Board must be made aware of all short term borrowings at the next Board meeting.

Expenditure on Charitable and Endowment Funds	
Up to £4,999	Fund Manager, Health Stars Charity/Fundraising Manager
Over £5,000*	Fund Manager, Director of Finance and Executive Management Team
*Any expenditure over £5,000 is subject to procurement rules and budgetary delegation set out above and elsewhere in the SFIs	
Over £25,000	Fund Manager, Director of Finance and Trust Board as Corporate Trustee
Over £100,000	Trust Board as Corporate Trustee

**SECTION D –**  
**STANDING FINANCIAL INSTRUCTIONS**

**SECTION D - STANDING FINANCIAL INSTRUCTIONS**

**10. INTRODUCTION**

These standing financial instructions (SFIs) refer to both the Trust as provider and any activities the Trust undertakes via the Provider Collaborative. SFIs for the provider collaborative are subject to the same principles as the Trusts as set out in this document.

**10.1 General**

- 10.1.1 These Standing Financial Instructions (SFIs) are issued in accordance with the Trust (Functions) Directions 2000 issued by the Secretary of State which require that each Trust shall agree Standing Financial Instructions for the regulation of the conduct of its Directors and officers in relation to all financial matters with which they are concerned. They shall have effect as if incorporated in the Standing Orders (SOs).
- 10.1.2 These Standing Financial Instructions detail the financial responsibilities, policies and procedures adopted by the Trust. They are designed to ensure that the Trust's financial transactions are carried out in accordance with the law and with the requirements of the Independent Regulator in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the Scheme of Matters Reserved to the Trust Board and the Scheme of Delegation adopted by the Trust.
- 10.1.3 These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Trust and its constituent organisations including Trading Units. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance.
- 10.1.4 Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Director of Finance must be sought before acting. The user of these Standing Financial Instructions should also be familiar with and comply with the provisions of the Trust's Standing Orders.
- 10.1.5 The failure to comply with Standing Financial Instructions and Standing Orders can in certain circumstances be regarded as a disciplinary matter that could result in dismissal.
- 10.1.6 The Trust is considered as a commercial organisation under the terms of the Bribery Act 2010. As such all employees of the Trust are required to comply with these SFIs.

- 10.1.7 Overriding Standing Financial Instructions – If for any reason these Standing Financial Instructions are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance shall be reported to the next formal meeting of the Audit Committee for referring action or ratification. All Directors of the Trust Board and officers have a duty to disclose any non-compliance with these Standing Financial Instructions to the Director of Finance as soon as possible.

## **10.2 Responsibilities and Delegation**

### **10.2.1 The Board**

The Board exercises financial supervision and control by:

- (a) approving the financial strategy; following formulation by the Finance & Investment Committee
- (b) requiring the submission and approval of budgets within approved allocations/overall income;
- (c) defining and approving essential features in respect of important procedures and financial systems (including the need to obtain value for money);
- (d) defining specific responsibilities placed on Board members and employees as indicated in the Scheme of Delegation

- 10.2.1.1 The Board has resolved that certain powers and decisions may only be exercised by the Board in a formal session. These are set out in the Scheme of Matters Reserved to the Trust Board document. All other powers have been delegated to such other Committees as the Trust has established.

### **10.2.2 The Chief Executive and Director of Finance**

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

Within the Standing Financial Instructions, it is acknowledged that the Chief Executive is ultimately accountable to the Board, and as Accountable Officer, to the Independent Regulator, for ensuring that the Board meets its obligation to perform its functions within the available financial resources. The Chief Executive has overall executive responsibility for the Trust's activities; is responsible to the Chair and the Board for ensuring that its financial obligations and targets are met and has overall responsibility for the Trust's system of internal control.

- 10.2.2.1 It is a duty of the Chief Executive to ensure that Directors, employees and all new appointees are notified of, and put in a position to understand their responsibilities within these Instructions.

### **10.2.3 The Director of Finance**

The Director of Finance is responsible for:

- (a) implementing the Trust's financial policies and for coordinating any corrective action necessary to further these policies;
- (b) maintaining an effective system of internal financial control including ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;



- (c) ensuring that sufficient records are maintained to show and explain the Trust's transactions, in order to disclose, with reasonable accuracy, the financial position of the Trust at any time;

and, without prejudice to any other functions of the Trust, and employees of the Trust, the duties of the Director of Finance include:

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

#### **10.2.4 Board Members and Employees**

All Board members and officers, individually and collectively, are responsible for:

- (a) the security of the property of the Trust;
- (b) avoiding loss;
- (c) exercising economy and efficiency in the use of resources;
- (d) conforming with the requirements of Standing Orders, Standing Financial Instructions, Financial Procedures and the Scheme of Delegation.

#### **10.2.5 Contractors and their Employees**

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

- 10.2.6 For Board members and any officers employees who carry out a financial function, the form in which financial records are kept and the manner in which members of the Board members and officers discharge their duties must be to the satisfaction of the Director of Finance.

### **11. Audit**

#### **11.1 Audit Committee**

- 11.1.1 In accordance with Standing Orders, the Constitution, the 2006 Act (and as set out in the Audit Code for NHS Foundation Trusts, issued by the Independent Regulator) the Board shall formally establish an Audit Committee, with clearly defined terms of reference and following guidance from the NHS Audit Committee Handbook (2014), which will provide an independent and objective view of internal control by:

- (a) overseeing Internal and External Audit services;
- (b) reviewing financial and information systems and monitoring the integrity of the financial statements and reviewing significant financial reporting judgments.
- (c) review the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation's activities (both clinical and non-clinical), that supports the achievement of the organisation's objectives;

- (d) monitoring compliance with Standing Orders and Standing Financial Instructions;
- (e) reviewing schedules of losses and compensations and making recommendations to the Board;
- (f) reviewing the arrangements in place to support the Assurance Framework process prepared on behalf of the Board and advising the Board accordingly.

The Audit Committee can delegate some of their detailed responsibilities to the but they remain accountable for the independent and objective view of all internal controls.

11.1.2 Where the Audit Committee considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the Committee wishes to raise, the Chair of the Audit Committee should raise the matter at a full meeting of the Board. Exceptionally, the matter may need to be referred to the Department of Health. In the first instance this should be referred to the Director of Finance

11.1.3 It is the responsibility of the Director of Finance to ensure an adequate Internal Audit service is provided and the Audit Committee shall be involved in the selection process when/if an Internal Audit service provider is changed.

## **11.2 Director of Finance**

11.2.1 The Director of Finance is responsible for:

- (a) ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control including the establishment of an effective Internal Audit function;
- (b) ensuring that the Internal Audit is adequate and meets the NHS mandatory audit standards
- (c) deciding at what stage to involve the police in cases of misappropriation and other irregularities not involving fraud or corruption;
- (d) ensuring that an annual internal audit report is prepared for the consideration of the Audit Committee. The report must cover:
  - (i) a clear opinion on the effectiveness of internal control in accordance with current assurance framework guidance issued by the Department of Health including for example compliance with control criteria and standards;
  - (ii) major internal financial control weaknesses discovered;
  - (iii) progress on the implementation of internal audit recommendations;
  - (iv) progress against plan over the previous year;
  - (v) strategic audit plan covering the coming three years;
  - (vi) a detailed plan for the coming year.

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

- (a) access to all records, documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature;

- (b) access at all reasonable times to any land, premises or Board members or officer of the Trust;
- (c) the production of any cash, stores or other property of the Trust under a Board member and or an officer's control; and
- (d) explanations concerning any matter under investigation.

### **11.3 Role of Internal Audit**

#### **11.3.1 Internal Audit will review, appraise and report upon:**

- (a) the extent of compliance with, and the financial effect of, relevant established policies, plans and procedures;
- (b) the adequacy and application of financial and other in scope management controls;
- (c) the suitability of financial and other related management data;
- (d) the extent to which the Trust's assets and interests are accounted for and safeguarded from loss of any kind, arising from:
  - (i) fraud and other offences;
  - (ii) waste, extravagance, inefficient administration;
  - (iii) poor value for money or other causes.
- (e) Internal Audit shall also independently verify the Assurance Statements in accordance with guidance from the Department of Health and the Constitution, the 2006 Act (and as set out in the Audit Code for NHS Foundation Trusts, issued by the Independent Regulator)

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

11.3.3 The Head of Internal Audit will normally attend Audit Committee meetings and has a right of access to all Audit Committee members, the Chair and Chief Executive of the Trust.

11.3.4 The Head of Internal Audit shall be accountable to the Director of Finance. The reporting system for internal audit shall be agreed between the Director of Finance, the Audit Committee and the Head of Internal Audit. The agreement shall be in writing and shall comply with the guidance on reporting contained in the NHS Internal Audit Standards. The reporting system shall be reviewed at least every three years.

### **11.4 External Audit**

11.4.1 The External Auditor is appointed by the Council of Governors and paid for by the Trust. The Audit Committee must ensure a cost-efficient service. If there are any problems relating to the service provided by the External Auditor, then this should be raised with the External Auditor and referred on to the Council of Governors if the issue cannot be resolved.

### **11.5 Fraud and Corruption**

11.5.1 In line with their responsibilities, the Trust Chief Executive and Director of Finance

shall monitor and ensure compliance with Service Condition 24 of the NHS Standard Contract on fraud and corruption.

11.5.2 The Director of Finance shall nominate a suitable person to carry out the duties of the Local Counter Fraud Specialist (LCFS) as specified at NHS Requirement 9 of the Government Functional Standard (GOVS 013: Counter fraud).

11.5.3 The LCFS shall report to the Trust's Director of Finance and shall work with staff in NHS Counter Fraud Authority in accordance with the NHS Counter Fraud Manual.

11.5.4 The LCFS will provide a written report, at least annually, on counter fraud work within the Trust.

## **11.6 Security Management**

11.6.1 In line with their responsibilities, the Trust Chief Executive will monitor and ensure compliance with Directions issued by the Secretary of State for Health on NHS security management.

11.6.2 The Trust shall nominate a suitable person to carry out the duties of the Local Security Management Specialist (LSMS) as specified by the Secretary of State for Health guidance on NHS security management.

11.6.3 The Trust shall nominate a Non-Executive Director to be responsible to the Board for NHS security management.

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

## **12. Allocations, Planning, Budgets, Budgetary Control and Monitoring**

### **12.1 Preparation and Approval of Plans and Budgets**

12.1.1 The Chief Executive will compile and submit to the Board an annual budget which takes into account financial targets and forecast limits of available resources. The Strategic Plan will contain:

- (a) a statement of the significant assumptions on which the plan is based;
- (b) details of major changes in workload, delivery of services or resources required to achieve the plan.

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

- (a) be in accordance with the aims and objectives set out in the Annual Plan
- (b) accord with workload and manpower plans;
- (c) be produced following discussion with appropriate budget holders;
- (d) be prepared within the limits of available funds;
- (e) identify potential risks.

12.1.3 The Director of Finance shall monitor financial performance against budget and plan, periodically review them, and report to the Board.

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

- 12.1.5 All budget holders will sign up to their allocated budgets at the commencement of each financial year.
- 12.1.6 The Director of Finance has a responsibility to ensure that adequate training is delivered on an on-going basis to budget holders to help them manage successfully.

## **12.2 Budgetary Delegation**

- 12.2.1 The Chief Executive may delegate the management of a budget to permit the performance of a defined range of activities. This delegation must be in writing and be accompanied by a clear definition of:
- (a) the amount of the budget;
  - (b) the purpose(s) of each budget heading;
  - (c) individual and group responsibilities;
  - (d) authority to exercise virement;
  - (e) achievement of planned levels of service;
  - (f) the provision of regular reports.
- 12.2.2 The Chief Executive and delegated budget holders must not exceed the budgetary total or virement limits set by the Board.
- 12.2.3 Any budgeted funds not required for their designated purpose(s) revert to the immediate control of the Chief Executive, subject to any authorised use of virement.
- 12.2.4 Non-recurring budgets should not be used to finance recurring expenditure without the authority in writing of the Chief Executive, as advised by the Director of Finance.

## **12.3 Budgetary Control and Reporting**

- 12.3.1 The Director of Finance will devise and maintain systems of budgetary control. These will include:
- (a) monthly financial reports to the Board in a form approved by the Board containing:
    - (i) income and expenditure to date showing trends and forecast year-end position;
    - (ii) movements in working capital;
    - (iii) movements in cash and capital;
    - (iv) capital project spend and projected outturn against plan;
    - (v) explanations of any material variances from plan;
    - (vi) details of any corrective action where necessary and the Chief Executive's and/or Director of Finance's view of whether such actions are sufficient to correct the situation;
  - (b) the issue of timely, accurate and comprehensible advice and financial reports to each budget holder, covering the areas for which they are responsible;
  - (c) investigation and reporting of variances from financial, workload and manpower budgets;

- (d) monitoring of management action to correct variances; and
- (e) arrangements for the authorisation of budget transfers.

12.3.2 Each Budget Holder is responsible for ensuring that:

- (a) any likely overspending or reduction of income which cannot be met by virement is not incurred without the prior consent of the Board;
- (b) the amount provided in the approved budget is not used in whole or in part for any purpose other than that specifically authorised subject to the rules of virement;
- (c) no permanent employees are appointed without the approval of the Chief Executive other than those provided for within the available resources and manpower establishment as approved by the Board.

12.3.3 (a) Where an employee has more than one post with Humber Teaching NHS Foundation Trust then for the purposes of approval of expenses on-line the budget holder for the primary post will be the person designated to approve expenses claims for all posts held by the individual staff member.

12.3.4 The Chief Executive is responsible for ensuring the Trust identifies and implements cost improvements and income generation initiatives in accordance with the requirements of the Strategic Plan and a balanced budget.

## **12.4 Capital Expenditure**

12.4.1 The general rules applying to delegation and reporting shall also apply to capital expenditure.

## **12.5 Monitoring Returns**

12.5.1 The Chief Executive is responsible for ensuring that the appropriate monitoring forms are submitted to the requisite monitoring organisation.

## **13. Annual Accounts and Reports**

13.1 The Director of Finance, on behalf of the Trust, will:

- (a) prepare financial returns in accordance with the accounting policies and guidance given by Monitor, the Trust's accounting policies, and generally accepted accounting practice;
- (b) prepare and submit annual financial reports to Monitor certified in accordance with current guidelines;
- (c) submit financial returns to the Independent Regulator for each financial year in accordance with the timetable prescribed by the Independent Regulator.

13.2 The Trust's annual accounts must be audited by an auditor appointed by the Council of Governors. The Trust's audited annual accounts must be presented to the Board for approval and received at a public meeting of the Council of Governors.

13.3 The Trust will publish an annual report, in accordance with the Constitution and present it to the Council of Governors. The document will comply with the Independent Regulator's Annual Report Guidance for NHS Foundation Trusts

## **14. Bank Accounts**

### **14.1 General**

14.1.1 The Director of Finance is responsible for managing the Trust's banking arrangements and for advising the Trust on the provision of banking services and operation of accounts. This advice will take into account guidance/directions issued from time to time by the Monitor. In line with 'Cash Management in the NHS' the Trust's banking arrangements should be in line with the guidelines set out in the Trust's Treasury Management policy.

14.1.2 The Board shall approve the banking arrangements.

### **14.2 Bank Accounts**

14.2.1 The Director of Finance is responsible for:

- a) the control and internal administration of the Trust's bank accounts;
- b) establishing separate bank accounts for the Trust's non-exchequer funds;
- c) ensuring payments made from bank accounts do not exceed the amount credited to the account except where arrangements have been made;
- d) reporting to the Board all arrangements made with the Trust's bankers for accounts to be overdrawn.
- e) monitoring compliance with Department of Health guidance on the level of cleared funds.

### **14.3 Banking Procedures**

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

- (a) the conditions under which each bank account is to be operated.
- (b) those authorised to sign cheques or other orders drawn on the Trust's accounts.

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

### **14.4 Tendering and Review**

14.4.1 The Director of Finance will review the commercial banking arrangements of the Trust at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Trust's commercial banking business.

14.4.2 The results of the tendering exercise should be reported to the Board. This review is not necessary for Government Banking Service accounts.

## **15. Income, Fees and Charges and Security of Cash, Cheques and other Negotiable Instruments**

### **15.1 Income Systems**

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

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

### **15.2 Fees and Charges**

15.2.1 The Trust shall follow the Department of Health's advice in the "Costing Manual" in setting prices for NHS service agreements.

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

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

### **15.3 Debt Recovery**

15.3.1 The Director of Finance is responsible for the appropriate recovery action on all outstanding debts.

15.3.2 Income not received should be dealt with in accordance with losses procedures.

15.3.3 Controls should be in place to prevent overpayments arising. If there are incidences of such overpayments there need to be controls and processes in place to detect them and to initiate recovery.

### **15.4 Security of Cash, Cheques and other Negotiable Instruments**

15.4.1 The Director of Finance is responsible for:

- (a) approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
- (b) ordering and securely controlling any such stationery;
- (c) the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines;
- (d) prescribing systems and procedures for handling cash and negotiable securities on behalf of the Trust.

15.4.2 Official money shall not under any circumstances be used for the encashment of private cheques or IOUs.

15.4.3 All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the Director of Finance.



- 15.4.4 The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Trust is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Trust from responsibility for any loss.

## **16. PROCUREMENT OF GOODS AND NON-HEALTH CARE SERVICES**

**This procedure is used for when the Trust is procuring goods and non-health care services**

### **16.1 Duty to Comply with Standing Orders and Standing Financial Instructions**

The procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Financial Instructions (except where SO 3.13 is applied).

### **16.2 Legislation Governing Public Procurement (Goods and non-health care services)**

- (a) The Trust shall comply with the Public Contracts Regulations 2006 (the “Regulations”) and any EU Directives relating to EU procurement law having direct effect in England (the “Directives”) and any other duties derived from the EU Treaty (“Treaty Obligations”) and any duties derived from the UK common law (“Common Law Duties”) (the Regulations, Directives, Treaty Obligations and Common Law Duties together are referred to elsewhere in these SFIs as “Procurement Legislation”). The Procurement Legislation as from time to time amended shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions.
- (b) The Trust should consider obtaining support from any suitably qualified professional advisor (including where appropriate legal advisors to ensure compliance with Procurement Legislation when engaging in tendering procedures.
- (c) The Trust shall consider the application of any applicable duty to consult or engage the public or any relevant Overview and Scrutiny Committee of a Local Authority prior to commencing any procurement process for a contract opportunity.

### **16.3 Guidance on Public Procurement and Commissioning**

- a. The Trust should have regard to all relevant guidance issued by the NHS England in relation to the conduct of procurement practice and the commissioning of health care services, including but not limited to:
- b. All off payroll engagements of more than six months in duration, for more than a daily rate of £220 should be referred to the Trust Procurement department before commitment to contract is given. This is to ensure contractual provisions are explicit that allow the Trust to seek assurance regarding the income tax, NIC obligations and IR35 status of the engagement – and to terminate the contract if that assurance is not provided. The general provision in relation to tendering 16.6.1 and quotations 16.8.1 also apply in addition to this requirement.

### **16.4 Decision to Tender and Exceptions to Requirement to Tender**

#### **16.4.1 Presumption to Tender**

Where:

(a) a contract opportunity that is required to be tendered under the Public Contract Regulations i.e. the contract opportunity is governed by the Public Contract Regulations and the value of the contract opportunity as calculated pursuant to the Public Contract Regulations exceeds the relevant financial threshold excluding VAT for the requirement to run a formal tender process; then subject to SFI 16.7.5 the Trust shall ensure that contract opportunities with the Trust are advertised in accordance with SFI 16.6.9 and where more than one response is received that competitive tenders are invited for:

- the supply of goods, materials and manufactured articles;
- the rendering of non-health care services including all forms of management consultancy services;
- the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and
- subject to SFI 16.16 for disposals.

## **16.5 Capital Investment Manual and Other Department of Health Guidance**

The Trust shall comply with the requirements of the Department of Health's Capital Investment Manual and Estate code in respect of capital investment and estate and property transactions. In the case of management consultancy contracts the Trust shall comply with the Independent Regulator's Management Consultancy spending approval process.

## **16.6 Formal Competitive Tendering**

### **16.6.1 General Applicability**

The Trust shall ensure that competitive tenders are invited for:

- the supply of goods, materials and manufactured articles;
- the rendering of non-health care services including all forms of management consultancy services;
- For the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); for disposals.

### **16.6.2 Exceptions and Instances where Formal Tendering Need Not be Applied**

Formal tendering procedures **need not be applied** where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed the threshold for tendering as set out in the Scheme of Delegation;
- (b) where the supply is proposed under special arrangements negotiated by NHS England in which event the said special arrangements must be complied with;
- (c) regarding disposals as set out in SFI 24;
- (d) the Trust is entitled to call off from a Framework Agreement and the requirements of SFI 21.1.2 (Use of Framework Agreements) have been followed and have been approved in accordance with the Scheme of Delegation

- (e) for a contract opportunity for goods and non-health care services that it is not reasonably expected to exceed £49,999 as requirements of SFI 16.8 Quotations: Competitive and Non-Competitive thence apply;

Formal tendering procedures **may be waived** in the following circumstances:

- f) in very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record;
- (g) where the requirement is covered by an existing contract;
- (h) where a Consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the Consortium members;
- (i) where the timescale genuinely precludes competitive tendering but failure to plan the work properly would not be regarded as a justification for a single tender;
- (j) where specialist expertise is required and is available from only one source;
- (k) when the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;

when the goods required by the Trust are a partial replacement for, or in addition to, existing goods and to obtain the goods from a supplier other than the supplier who supplied the existing goods would oblige the Trust to acquire goods with different technical characteristics and this would result in:

- incompatibility with the existing goods; or
- disproportionate technical difficulty in the operation and maintenance of the existing goods;

but no such contract may be entered in for a duration of more than three years;

- (l) there is a clear benefit to be gained from maintaining continuity with an earlier project. However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;

when works or services required by the Trust are additional to works or services already contracted for but for unforeseen circumstances such additional works or services have become necessary and that such additional works or services:

- cannot for technical or economic reasons be carried out separately from the works or services under the original contract without major inconvenience to the Trust; or
- can be carried out or provided separately from the works or services under the original contract but are strictly necessary to the latest stages of performance of the original contract; provided that the value of such

additional works or services does not exceed 50% of the value of the original contract.

- (m) for the provision of legal advice and services providing that any legal firm or partnership commissioned by the Trust is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned.

The Director of Finance will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work.

- (n) where allowed and provided for in the Capital Investment Manual.

The waiving of competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and recorded on a Tender waiver form which must be completed by Procurement, signed by the Chief Executive and reported to the Audit Committee at each meeting.

- (o) Where subcontracting arrangements arise following successful joint tender applications with partner organisations or where contracting arrangements/requirements are inherited under a Lead Provider arrangement.

### **16.6.3 Fair and Adequate Competition**

Where the exceptions set out in SFI Nos. 16.1 and 16.8.3 apply, the Trust shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate having regard to their capacity to supply the goods or materials or to undertake the services or works required. The appropriate numbers are set out in the Scheme of Delegation

### **16.6.4 Equality of Treatment**

The Trust shall ensure that no sector of any market (public, private, third sector/social enterprise is given an unfair advantage in the design or conduct of any tender process.

### **16.6.5 Non-Discrimination**

- (a) The subject matter and the scope of the contract opportunity should be described in a non-discriminatory manner. The Trust should utilise generic and/or descriptive terms, rather than the trade names of particular products or processes or their manufacturers or their suppliers.
- (b) All participants in a tender process should be treated equally and all rules governing a tender process must apply equally to all participants.

### **16.6.6 Building and Engineering Construction Works**

The Trust shall ensure that firms/individuals invited to tender for building and engineering construction work, where this is not contrary to the Directives by the

Council of the European Union (see Scheme of Delegation) are among those on approved lists or have been openly advertised in accordance with EU Procurement and UK legislation.

Competitive Tendering cannot be waived for building and engineering construction works and maintenance (other than in accordance with Concode) without Departmental of Health approval.

#### **16.6.7 Items which Subsequently Breach Thresholds after Original Approval**

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

#### **16.6.8 Advertisement of Contract Opportunities**

Where a formal tender process is required under SFI 16.4 then:

- (a) where a contract opportunity falls within the Regulations and a process compliant with the Regulations is required, a relevant notice should be utilised; or
- (b) Where a contract opportunity does not fall within the Regulations the Trust shall utilise a form of advertising for such contract opportunity that is sufficient to enable potential providers to access appropriate information about the contract opportunity so as to be in a position to express an interest; and

#### **16.6.9 Choice of Procedure**

(a) Where a contract opportunity falls within the Public Contract Regulations and a process compliant with the Public Contract Regulations is required then the Trust shall utilise an available tender procedure under the Public Contract Regulations.

(b) In all other cases the Trust shall utilise a tender procedure proportionate to the value, complexity and risk of the contract opportunity and shall ensure that invitations to tender are sent to a sufficient number of providers to provide fair and adequate competition (in any event no less than two).

### **16.7 Tendering Procedure**

#### **16.7.1 Invitation to Tender**

- (a) All invitations to tender shall state the date and time as being the latest time for the receipt of tenders.
- (b) All invitations to tender shall state that no tender will be accepted unless:
  - (i) submitted in a plain sealed package or envelope bearing a pre-printed label supplied by the Trust (or the word "tender" followed by the subject to which it relates) and the latest date and time for the receipt of such tender addressed to the Chief Executive or nominated Manager;
  - (ii) that tender envelopes/ packages shall not bear any names or marks indicating the sender. The use of courier/postal services must not identify the sender on the envelope or on any receipt so required by the deliverer.

- (iii) or are submitted electronically through the appropriate process using the Trust's e-tendering service, as instructed within the tender documentation;
- (c) Every tender for goods, materials, services or disposals shall embody such of the NHS Standard Contract Conditions as are applicable.

Every invitation to tender must require each bidder to give a written undertaking not to engage in collusive tendering or other restrictive practice and not to engage in canvassing the Trust, its employees or officers concerning the contract opportunity tendered.

- (d) Every tender for building or engineering works (except for maintenance work, when Estmancode guidance shall be followed) shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with Concode; or, when the content of the work is primarily engineering, the General Conditions of Contract recommended by the Institution of Mechanical and Electrical Engineers and the Association of Consulting Engineers (Form A), or (in the case of civil engineering work) the General Conditions of Contract recommended by the Institute of Civil Engineers, the Association of Consulting Engineers and the Federation of Civil Engineering Contractors. These documents shall be modified and/or amplified to accord with Department of Health guidance and, in minor respects, to cover special features of individual projects.

#### **16.7.2 Receipt and Safe Custody of Tenders**

The Chief Executive or his nominated representative will be responsible for the receipt, endorsement and safe custody of tenders received until the time appointed for their opening.

The date and time of receipt of each tender shall be endorsed on the tender envelope/package.

#### **16.7.3 Opening Tenders and Register of Tenders**

- (a) Tenders are received electronically and the Procurement team will be responsible for the unlocking of the e-tendering portal to allow bids to be opened with an audit trail kept on the accessing of the electronic tender submissions.
- (b) Incomplete tenders, i.e. those from which information necessary for the adjudication of the tender is missing, and amended tenders i.e., those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt, but prior to the opening of other tenders, should be dealt with in the same way as late tenders. (Standing Order No. 16.7.5 below).

#### **16.7.4 Admissibility of Tenders**

- (a) If for any reason the designated officers are of the opinion that the tenders received are not strictly competitive (for example, because their numbers are insufficient or any are amended, incomplete or qualified) no contract shall be awarded without the approval of the Chief Executive.
- (b) Where only one tender is sought and/or received, the Chief Executive and Director of Finance shall, as far practicable, ensure that the price to be paid is fair and reasonable and will ensure value for money for the Trust.

#### **16.7.5 Late Tenders**

- (a) Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered only if the Chief Executive or his nominated officer decides that there are exceptional circumstances i.e. dispatched in good time but delayed through no fault of the tenderer.
- (b) Only in the most exceptional circumstances will a tender be considered which is received after the opening of the other tenders and only then if the tenders that have been duly opened have not left the custody of the Chief Executive or his nominated officer or if the process of evaluation and adjudication has not started.
- (c) While decisions as to the admissibility of late, incomplete or amended tenders are under consideration, the tender documents shall be kept strictly confidential, recorded, and held in safe custody by the Chief Executive or his nominated officer.

#### **16.7.6 Accountability where In-house Bid**

- (a) In all cases where the Trust determine that in-house services (which term includes Trust community services) should be subject to competitive tendering the following groups shall be set up:
  - Specification group, comprising the Chief Executive or nominated officer/s and specialist officer whose function shall be to draw up the specification of the service to be tendered.
  - In-house tender group, comprising a nominee of the Chief Executive and technical support to draw up and submit the in-house tender submission.
  - Evaluation group, comprising normally a specialist officer, a supplies or commissioning officer and a Director of Finance representative whose function is to shortlist expressions of interest received and evaluate tenders received. For services having a likely annual expenditure exceeding £100,000, a non-officer member should be a member of the evaluation team.
- (b) No officer or employee of the Trust directly engaged or responsible for the provision of the in-house service subject to competitive tendering may be a member of any of the specification or evaluation group established under SFI 16.7.12(a) but the specification group may consult with and take into account information received from such officers or employees in drawing up the Trust's specification subject at all times to observing the duty of non-discrimination at SFI 16.7.6. No member of the in-house tender group may participate in the evaluation of tenders.
- (c) The evaluation group shall make recommendations to the Board.
- (d) The Chief Executive shall nominate an officer to oversee and manage the contract awarded on behalf of the Trust.

#### **16.7.7 Acceptance of Formal Tenders (See overlap with SFI No. 16.7)**

- (a) Any discussions with a tenderer which are deemed necessary to clarify technical aspects of his tender before the award of a contract will not disqualify the tender.

- (b) Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt) should be dealt with in the same way as late tenders (see SFI 16.7.5 above).
- (c) Where examination of tenders reveals errors which would affect the tender figure, the tenderer may be given details of such errors and afforded the opportunity of confirming or withdrawing his offer.
- (d) The lowest tender, if payment is to be made by the Trust, or the highest, if payment is to be received by the Trust, shall be accepted unless there are good and sufficient reasons to the contrary. Such reasons shall be set out in either the contract file, or other appropriate record.

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

- (i) experience and qualifications of team members;
- (ii) understanding of client's needs;
- (iii) feasibility and credibility of proposed approach;
- (iv) ability to complete the project on time.

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

- (e) No tender shall be accepted which will commit expenditure in excess of that which has been allocated by the Trust and which is not in accordance with these Instructions except with the authorisation of the Chief Executive.
  - (i) No tender shall be accepted by the Trust which is obtained contrary to these SFIs except with the authorisation of the Chief Executive or Director of Finance.
  - (ii) All tenders should, subject to compliance with the provisions of the Freedom of Information Act 2000, be kept confidential and should be retained for 12 months from the date set for the receipt of tenders for inspection.
- (f) The use of these procedures must demonstrate that the award of the contract was:
  - (i) not in excess of the going market rate / price current at the time the contract was awarded;
  - (ii) that best value for money was achieved.
- (g) All tenders should be treated as confidential and should be retained for inspection.
- (h) All tendering activity carried out through e-tendering should be compliant with Trust policies and procedures. Issue of all tender documentation will be done electronically through a secure website with controlled access using secure login, authentication and viewing rules. All tenders will be received into a secure vault so that they cannot be accessed until an agreed opening time.



#### **16.7.8 Tender Reports to the Board**

Reports to the Board will be made on an exceptional circumstance basis only.

#### **16.7.9 Monitoring and Audit of Decision to Tender**

- (a) The waiving of competitive tendering procedures should not be used with the object of avoiding competition or solely for administrative convenience or subject to SFIs 16.8.2 to award further work to a provider originally appointed through a competitive procedure.
- (b) Where it is decided that competitive tendering need not be applied or should be waived, the fact of the non application or waiver and the reasons for it should be documented and recorded in an appropriate Trust record and reported to the Audit Committee at each meeting.
- (c) Where the Trust proposes not to conduct a tender process in relation to a contract opportunity for a new health care service or a significantly changed health care service then the Trust shall consider such proposal at a meeting of the Board as recommended by the Trust Procurement Guide

#### **16.7.10 List of Approved Firms for Building and Engineering Construction Works**

The Trust does not hold a physical approved contractors list as it uses general open tendering principles the same as for all other tenders created. Where relevant the Trust may use the services of construction industry standards such as Constructionline or YORBuild to pre approve contractors to bid for work.

#### **16.7.11 Checks to be Undertaken When Not Using Approved Lists**

Where a contract (and where appropriate a quote) is to be awarded to a contractor who is not on an approved list there should be appropriate checks to ensure that the Contractor is technically competent, financially secure and where appropriate that they comply with any appropriate equalities and health and safety legislation.

#### **16.7.12 Contracts for Building or Engineering Works**

- (a) Subject to SFIs 16.7.9(b) inclusive, every contract for building or engineering works shall embody or be in the terms of the current edition of one of the Joint Contracts Tribunal Standard Forms of Building Contract or Department of the Environment (GC/Wks) Standard forms of contract amended to comply with Concode.
- (b) When the content of the work is primarily engineering every contract shall embody or be in the terms of:
  - the General Conditions of Contract recommended by the Institution of Mechanical Engineers; and/or
  - the Association for Consultancy and Engineering (Form A);
- (c) In the case of civil engineering work every contract shall embody or be in the terms of the General Conditions of Contract recommended by:
  - the Institution of Civil Engineers; and/or
  - the Association for Consultancy and Engineering; and/or
  - the Civil Engineering Contractors Association.
- (d) Each of the documents referred to in SFI 16.7.12 (a) to (c) inclusive may be modified and/or amplified to accord with Department of Health guidance and, with appropriate

professional advice (including legal advice if necessary), to cover special features of individual projects.

## **16.8 Quotations: Competitive and Non-Competitive**

### **16.8.1 General Position on Quotations**

Quotations for goods and non-health care services are required where formal tendering procedures are not adopted and where the intended expenditure exceeds the threshold set out in the Scheme of Delegation.

### **16.8.2 Competitive Quotations**

- (a) Quotations should be obtained from up to 5 firms/individuals based on Scheme of Delegation prepared by the Trust.
- (b) Quotations should be in writing unless the Chief Executive or his nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotations should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.
- (c) All quotations should be treated as confidential and should be retained for inspection.
- (d) The Chief Executive or his nominated officer should evaluate the quotation and select the quote which gives the best value for money. If this is not the lowest quotation if payment is to be made by the Trust, or the highest if payment is to be received by the Trust, then the choice made and the reasons why should be recorded in a permanent record.

### **16.8.3 Non-Competitive Quotations**

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

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

### **16.8.4 Quotations to be within Financial Limits**

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

## **16.9 Evaluation of Tenders and Quotations**

### **16.9.1 Overriding Duty to Achieve Best Value**

The Trust shall ensure that it seeks to obtain best value for each contract opportunity.

### **16.9.2 Choice of Evaluation Methodology**

The Trust must for each contract opportunity which is subject to a tender or a competitive quotation choose to adopt evaluation criteria based on either:

- (a) the lowest price; or
- (b) the most economically advantageous tender, based on criteria linked to the subject matter of the contract opportunity including but not limited to some or all of:
  - quality;
  - price;
  - technical merit;
  - aesthetic and functional characteristics;
  - environmental characteristics;
  - running costs;
  - cost effectiveness;
  - after sales service;
  - technical assistance;
  - delivery date;
  - delivery period; and/or
  - period of completion
- c) Each invitation to tender or invitation to supply a competitive quotation must state the evaluation criteria to be used to evaluate the tender or quotation and the relative weightings of each such criteria.

### **16.9.3 Authorisation of Tenders and Competitive Quotations**

Providing all the conditions and circumstances set out in these Standing Financial Instructions have been fully complied with, formal authorisation and awarding of a contract will be decided as specified in Scheme of Delegation.

Formal authorisation must be put in writing. In the case of authorisation by the Board this shall be recorded in their minutes.

### **16.9.4 Form of Contract: General**

Subject to the remainder of SFI 16.9.5 below the Trust shall consider the most applicable form of contract for each contract opportunity (including to the extent appropriate any NHS Standard Contract Conditions available) and should consider obtaining support from a suitably qualified professional advisor (including where appropriate legal advisors).

### **16.9.5 Statutory Requirements**

The Trust must ensure that all contracts that are governed by mandatory statutory requirements (whether contained in Statute, Regulations or directions) comply with such requirements. Such contracts include, but may not be limited to:

- (a) GMS contracts;
- (b) PMS agreements;
- (c) SPMS contracts;
- (d) APMS contracts;
- (e) PCTMS contracts;
- (f) PDS agreements;
- (g) PCTDS contracts;
- (h) GDS contracts;
- (i) GOS contracts (mandatory and/or additional services contract)

#### **16.10 Alternative Finance for Capital Procurement (See also SFI 22.2)**

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

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

#### **16.11 Compliance Requirements for all Contracts**

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

- (a) The Trust's Standing Orders and Standing Financial Instructions;
- (b)
- (c) any relevant directions including the Capital Investment Manual, Estate code and guidance on the Procurement and Management of Consultants;
- (d) such of the NHS Standard Contract Conditions as are applicable.
- (e) contracts with Foundation Trusts must be in a form compliant with appropriate NHS guidance.
- (f) Where appropriate contracts shall be in or embody the same terms and conditions of contract as was the basis on which tenders or quotations were invited.
- (g) In all contracts made by the Trust, the Board shall endeavour to obtain best value for money by use of all systems in place. The Chief Executive shall nominate an officer who shall oversee and manage each contract on behalf of the Trust.
- (h) In all contracts made by the Trust, the tendered value of the winning contract should not be exceeded. If, in the course of the contract, the tendered value is required to be exceeded then, prior to any agreement to vary the value, authorisation must be obtained by the relevant Director in charge of the business area. In the case of a capital contract, this agreement must be provided from the Capital and Redesign Group prior to any agreement being made. In all instances this agreement should only be sought when all other mitigating options have been explored.

## **16.12 Personnel and Agency or Temporary Staff Contracts**

The Chief Executive shall nominate officers with delegated authority to enter into contracts of employment, regarding staff, agency staff or temporary staff service contracts.

## **16.13 Disposals (See overlap with SFI 24)**

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

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

## **16.14 In-house Services**

- 16.14.1 The Chief Executive shall be responsible for ensuring that best value for money can be demonstrated for all services provided on an in-house basis. The Trust may also determine from time to time that in-house services should be market tested by competitive tendering.
- 16.14.2 In all cases where the Board determines that in-house services should be subject to competitive tendering the following groups shall be set up:
- (a) Specification group, comprising the Chief Executive or nominated officer/s and specialist.
  - (b) In-house tender group, comprising a nominee of the Chief Executive and technical support.
  - (c) Evaluation team, comprising normally a specialist officer, a supplies officer and a Director of Finance representative. For services having a likely annual expenditure exceeding £750,000 a Non-Executive Trust Board member should be a member of the evaluation team.
- 16.14.3 All groups should work independently of each other and individual officers may be a member of more than one group but no member of the in-house tender group may participate in the evaluation of tenders.
- 16.14.4 The evaluation team shall make recommendations to the Board.
- 16.14.5 The Chief Executive shall nominate an officer to oversee and manage the contract on behalf of the Trust.

**16.15     Applicability of SFIs on Tendering and Contracting to Funds Held in Trust  
(see also SFI 27)**

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

**17.        PROCUREMENT OF HEALTH CARE SERVICES**

**17.1     Duty to Comply with Standing Orders and Standing Financial Instructions.**

The procedure for making all contracts by or on behalf of the Trust shall comply with these Standing Financial Instructions (except where SO 3.13 is applied).

**17.2     Legislation Governing Procurement of Health Care Services**

- (a) The Trust shall comply with the Health and Care Act 2022 and The Health Care Services (Provider Selection Regime) Regulations 2023. The Procurement Legislation as from time to time amended shall have effect as if incorporated in these Standing Orders and Standing Financial Instructions.
- (b) The Trust should consider obtaining support from any suitably qualified professional advisor (including where appropriate legal advisors to ensure compliance with Procurement Legislation when engaging in tendering procedures.
- (c) The Trust shall consider the application of any applicable duty to consult or engage the public or any relevant Overview and Scrutiny Committee of a Local Authority prior to commencing any procurement process for a contract opportunity.

**17.3       The Provider Selection Regime (PSR)**

**17.3.1 How does the PSR work?**

The PSR applied to the arrangement of health care and public health services arranged by relevant authorities and irrespective of who the provider is (i.e., whether the service is provided by NHS providers, other public sector bodies, local authorities, or providers within the voluntary, community, social enterprise (VCSE) and independent sectors). The PSR will not apply to goods and non-health care services (such as medicines, medical equipment, cleaning, catering, business consultancy services and social care), unless arranged as part of mixed procurement.

The Trust can follow three different provider selection processes to award contracts for health care services under the PSR:

1. direct award processes (direct award process A, direct award process B and direct award process C)
2. most suitable provider process
3. competitive process.

**17.3.2 Making decisions under the PSR**

The PSR decision-making processes are set out in Regulation 6. This regime must be applied whenever relevant authorities are making decisions about awarding contracts for health care services. The first step for relevant authorities applying this regime is to identify which of the following provider selection processes are applicable.

**Direct award process A must be used when all of the following apply:**

- there is an existing provider of the health care services to which the proposed contracting arrangements relate
- the relevant authority is satisfied that the health care services to which the proposed contracting arrangements relate are capable of being provided only by the existing provider (or group of providers) due to the nature of the health care services.

Direct award process A must not be used to conclude a framework agreement.

**Direct award process B must be used when all of the following apply:**

- the proposed contracting arrangements relate to health care services in respect of which a patient is offered a choice of provider
- the number of providers is not restricted by the relevant authority
- the relevant authority will offer contracts to all providers to whom an award can be made because they meet all requirements in relation to the provision of the health care services to patients
- the relevant authority has arrangements in place to enable providers to express an interest in providing the health care services.

Where relevant authorities are required to offer choice to patients under regulation 39 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, they cannot restrict the number of providers and therefore direct award process B must be followed.

Direct award process B must not be used to conclude a framework agreement.

**Direct award process C may be used when all of the following apply:**

- the relevant authority is not required to follow direct award processes A or B
- the term of an existing contract is due to expire and the relevant authority proposes a new contract to replace that existing contract at the end of its term
- the proposed contracting arrangements are not changing considerably
- the relevant authority is of the view that the existing provider (or group of providers) is satisfying the existing contract and will likely satisfy the proposed contract to a sufficient standard.

Direct award process C must not be used to conclude a framework agreement.

**The most suitable provider process may be used when all of the following apply:**

- the relevant authority is not required to follow direct award processes A or B
- the relevant authority cannot or does not wish to follow direct award process C
- the relevant authority is of the view, taking into account likely providers and all relevant information available to the relevant authority at the time, that it is likely to be able to identify the most suitable provider (without running a competitive process).

The most suitable provider process must not be used to conclude a framework agreement.

**The competitive process must be used when all of the following apply:**

- the relevant authority is not required to follow direct award processes A or B
- the relevant authority cannot or does not wish to follow direct award process C, and cannot or does not wish to follow the most suitable provider process.

The competitive process must be used if the relevant authority wishes to conclude a framework agreement.

Once the relevant authority has identified which of these circumstances applies and has identified the appropriate provider selection process to follow, it will then need to follow that provider selection process as set out in detail in the sections below.

Relevant authorities are expected to identify which provider selection process is applicable sufficiently in advance of a contract coming to an end. The fact that a particular decision-making approach was used to select a provider in the past does not mean the same approach must be used for that service in future.

It is permitted to make certain modifications during the term of a contract to allow for changes to services or circumstances. The section on contract modifications sets out the conditions and transparency requirements for these modifications. In limited circumstances relevant authorities may need to act rapidly, for example, to address immediate risks to patient or public safety, within which it would be impractical to follow the steps required under this regime. The section on urgent awards or contract modifications sets out these circumstances and how relevant authorities must act if they arise.

## **17.4 Provider Selection Processes**

### **17.4.1 Direct award process A**

The process that must be followed when awarding a contract under direct award process A is set out in Regulations 6(3) and 7.

**The type of service means there is no realistic alternative to the current provider. This process must not be used to award contracts when establishing a new service.**

Direct award process A must be used to award contracts to the existing provider (or group of providers) when the nature of the service means there is no realistic alternative to the existing provider (or group of providers). Even when there are alternative providers in the market, as long as these are not considered to be realistic alternatives for the relevant authority's specific requirements, direct award process A must be used to award a contract.

Such services may include, but are not limited to:

- Type 1 and 2 urgent and emergency services and associated emergency inpatient services
- 999 emergency ambulance services
- NHS urgent mental health crisis services
- services established as a commissioner requested services (CRS)\*
- services provided by NHS trusts designated as 'essential services' in their NHS Standard Contract
- a service that is interdependent with, and cannot realistically be provided separately from, another service which only that provider can realistically provide (e.g., because of a need for cross-specialty or cross-service working).

\*A service is established as a commissioner requested services (CRS) by following the processes set out in the provider licence (for foundation trusts or independent sector providers) or designated an 'essential service' under an NHS contract (for trusts). Relevant authorities are expected to periodically review CRS designations, in line with the Guidance for commissioners on ensuring the continuity of health care services, as markets and alternative provision may evolve. Providers that have been designated to provide CRS can still be replaced if the relevant authority considers this to be appropriate.

Direct award process A must not be used to conclude a framework agreement or to award a contract based on a framework agreement.



#### **17.4.2 Direct award process B**

The process that must be followed when awarding a contract under direct award process B is set out in Regulations 6(4) and 8.

**People have a choice of providers, and the number of providers is not restricted by the relevant authority.**

Direct award process B must be used to award contracts to providers where people are offered a choice between providers and where the number of providers is not restricted by the relevant authority through provider selection. Services arranged using direct award process B may include, but are not limited to:

- elective services led by a consultant or mental health care professional where patients have a legal right to Choice (as set out in Part 8 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012)
- other elective services where patients do not have a legal right to Choice, but for which relevant authorities voluntarily offer patients a choice of providers and where the number of providers is not restricted by the relevant authority through provider selection (e.g., mandatory eye health services, audiology, podiatry services, NHS continuing health care services, public health services such as over-forty health checks).

For some services where the number of providers is not restricted or cannot be restricted, the qualification criteria, which providers must meet, will apply, before a provider can be offered a contract. These criteria (which only apply to ICBs and NHS England) sit outside the PSR decision-making processes and are set out in the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (as amended) and are explained in NHS England's Choice guidance.

When awarding a contract using direct award process B, relevant authorities must ensure that:

- arrangements are in place to enable providers to express an interest in providing the required services
- all providers that meet the requirements in relation to the provision of the health care services are offered contracts.

Relevant authorities must consider the exclusions in Regulation 20 and apply as appropriate.

Direct award process B must not be used to conclude a framework agreement or to award a contract based on a framework agreement.

The relevant transparency steps (see transparency section and Annex B) must be followed before contracts are awarded under this approach.

If relevant authorities are seeking to voluntarily establish other pools of providers from which patients can choose (i.e., for services where there is no legal right to choice) and they intend to select a limited number of providers to be available, they must use the most suitable provider process or the competitive process to make this selection.

#### **17.4.3 Direct award process C**

The process that must be followed when awarding a contract under the direct award process C is set out in Regulations 6(5) and 9.

**The existing provider is satisfying the existing contract and likely to satisfy the new contract, and the proposed contracting arrangements are not changing considerably from the existing contract.**

Direct award process C may be used to award a new contract to the existing provider (or group of providers), to replace an existing contract that is coming to an end, when all the tests below are met:

- the relevant authority is not required to follow direct award processes A or B
- the term of an existing contract is due to expire, and the relevant authority is proposing a new contract to replace that existing contract at the end of its term
- the proposed contracting arrangements are not changing considerably from the existing contract (see establishing that a proposed contracting arrangement is not changing considerably)
- the relevant authority is of the view that the existing provider is satisfying the existing contract to a sufficient standard, according to the detail outlined in the contract, and also taking into account the key criteria and applying the basic selection criteria
- the relevant authority is of the view that the existing provider will likely satisfy the proposed contract to a sufficient standard taking into account the key criteria and applying the basic selection criteria
- the procurement is not to conclude a framework agreement or to award a contract based on a framework agreement.

Once the relevant authority has ascertained that it can use direct award process C, it must follow the below steps:

1. Publish a notice containing its intention to award the contract to the chosen provider (see transparency) and observe the standstill period (see standstill period).
2. Enter into a contract with the chosen provider after the standstill period has concluded.
3. Publish a notice confirming the award of the contract within 30 days of the contract being awarded.

Even where the proposed contracting arrangements are not changing considerably from the existing contract and the provider is satisfying the existing contract and will likely be able to satisfy the new contract, relevant authorities do not have to use direct award process C. Relevant authorities may still choose to follow the most suitable provider process or the competitive process, for example because they wish to test the market. Relevant authorities must consider the exclusions in Regulation 20 and apply them as appropriate.

### **Establishing that the proposed contracting arrangements are not changing considerably from the existing contract**

The considerable change threshold is set out in Regulation 6(10). Circumstances where a change does not meet the considerable change threshold are set out in Regulations 6(11) and 6(12).

To use direct award process C, the relevant authority must be satisfied that the requirements for the provision of health care services are not changing considerably, i.e., they don't meet the considerable change threshold as set out in Regulation 6(10).

Under this regime, the threshold for considerable change is met where the change:

a. renders the proposed contracting arrangements materially different in character to the existing contract when that existing contract was entered into

or:

b. meets all the following:

- the change, (to the proposed contracting arrangements as compared with the existing contract), is attributable to a decision made by the relevant authority
- the lifetime value of the proposed new contract is at least £500,000 higher (i.e., equal to or exceeding £500,000) than the lifetime value of the existing contract when it was entered into
- the lifetime value of the proposed new contract is at least 25% higher (i.e., equal to or exceeding 25%) than the original lifetime value of the existing contract when it was entered into.

The considerable change threshold is not met, where either:

- The material difference in character from the existing contract (when that existing contract was entered into) applies solely as a result of a change in the identity of the provider due to succession into the position of provider following corporate changes including takeover, merger, acquisition or insolvency and the relevant authority is satisfied that the provider meets the basic selection. Additionally, all of the following three conditions do not apply:
  - attributable to a decision of the relevant authority
  - the lifetime value of the proposed contracting is at least £500,000 or higher than the lifetime value of the existing contract when it was entered into
  - the lifetime value of the proposed new contract is at least 25% or higher than the original lifetime value of the existing contract when it was entered into.
- The proposed contracting arrangements are not materially different in character to the existing contract when that existing contract was entered into, and the following three points all apply:
  - the changes in the relevant health care services to which the proposed contracting arrangements relate (compared with the existing contract) are attributable to a decision of the relevant authority; however, that decision had to be made due to external factors beyond the control of the relevant authority or the provider, such as changes in patient or service user volume or changes in prices in accordance with a formula provided for in the contract document
  - the lifetime value of the proposed contracting arrangement is £500,000 or higher than the lifetime value of the existing contract when it was entered into
  - the lifetime value of the proposed new contract is 25% or higher (i.e., equal to or exceeding 25%) than the original lifetime value of the existing contract when it was entered into).

Lifetime value of a contract means the total value of the contract over the full length of the contract. If there is an option to extend stated explicitly in the contract, then the value of the extension should also be considered in the lifetime value. For example, a contract may be worth £1 million per year and is for a duration of three years; the lifetime value of that contract when it was entered into would be £3 million. If there was an option to extend for an additional 2 years, worth £1 million per year, then the lifetime value of the contract when it was entered into would be £5 million. Unplanned modifications made to the contract during its term are not to be included in this calculation.

***Establishing that the existing provider is satisfying the existing contract, and is likely able to satisfy the new contract to a sufficient standard***

Once the relevant authority has established that the proposed contracting arrangements are not changing considerably, it must assess whether the existing provider is both:

- satisfying the existing contract to a sufficient standard, according to the detail outlined in the existing contract, and taking into account the key criteria and applying the basic selection criteria

- will likely be able to satisfy the new contract to a sufficient standard, according to the detail outlined in the new contract, taking into account key criteria and applying the basic selection criteria.

To do this, the relevant authority must decide the relative importance of the key criteria for the service in question, before assessing the existing provider in relation to each of the key criteria.

The relevant authority must be of the opinion, based on its assessments, that the existing provider is satisfying the existing contract and will likely be able to satisfy the new contract to a sufficient standard. The relevant authority must also assess whether the existing provider is continuing to meet the basic selection criteria.

If direct award process C is not applicable because the proposed contracting arrangements are changing considerably from the existing contract, or the existing provider is not satisfying the existing contract or is not likely to be able to satisfy the new contract, then the relevant authority must follow the most suitable provider process or the competitive process.

Relevant authorities must keep records of these considerations (see transparency) and the resultant decisions, as they may need to disclose information on the rationale for their decision if a representation is made (see standstill period).

#### **17.4.4 The most suitable provider process**

The process that must be followed when awarding a contract under the most suitable provider process is defined in Regulations 6(6) and 10.

#### **The relevant authority is able to identify the most suitable provider without running a competitive exercise.**

This provider selection process is designed to allow relevant authorities to make an assessment on which provider (or group of providers) is most suitable to deliver the proposed contracting arrangements based on consideration of the key criteria and the basic selection criteria, and to award a contract without running a competitive exercise.

This provider selection process gives relevant authorities a mechanism for reasonable and proportionate decision-making without running a competitive exercise. It is suitable for circumstances where a relevant authority is of the view, taking into account likely providers and all relevant information available to it at the time (see provider landscape), that it is likely to be able to identify the most suitable provider to deliver the health care services to the relevant population (local/regional/national). Relevant authorities are advised to follow this provider selection approach only when they are confident that they can, acting reasonably, clearly identify all likely providers capable of providing the health care services and passing any key criterion or sub-criterion which has been designated as pass/fail.

The most suitable provider process must not be used to conclude a framework agreement or to award a contract based on a framework agreement.

#### **Following this provider selection process**

This provider selection process may be followed where any of the following apply:

- the relevant authority is not required to follow direct award processes A or B
- the relevant authority is changing an existing contracting arrangement considerably (such that it must not be continued under direct award process C)
- a new service is being arranged
- the existing provider no longer wants to provide the services
- the relevant authority wants to consider potential providers (even where the proposed contracting arrangements are not changing considerably or otherwise), as this is in the best interest of people who use the service, but there is no benefit to running a competitive process or it is disproportionate to do so.

When following the most suitable provider process, the relevant authority:

1. Is advised to take account of any relevant existing contractual provisions relating to termination and contract exit where there is an existing contract with an existing provider in place, whether the existing provider no longer wants to or is no longer able to provide the services,
2. Is advised to consider undertaking a pre-market engagement exercise (see provider landscape) to help identify all suitable providers and develop the service specification.
3. Must decide the relative importance of each of the key criteria for the service in question (see key criteria); carefully considering the relative importance of the value criterion. It is advised that for provider selection processes with higher contract values, greater focus is given to value for money and the quality and efficiency of the services to be provided, unless this means the service does not best meet the needs of the population it is serving.
4. Must be of the view that by considering providers it understands are likely to have the ability to deliver services to the relevant (local/regional/national) population, and all relevant information available at the time (see provider landscape), it is likely able to identify the most suitable provider.
5. Must publish a notice setting out its intention to follow the most suitable provider process (see transparency). The relevant authority must not proceed to the assessment of likely providers until at least 14 days after the day on which the notice of intention is submitted for publication. The relevant authority is also advised to make potential providers aware that they are being considered for the award of the contract.
6. Is advised to ask the providers it identified as likely to have the ability to deliver services to the relevant (local/regional/national) population, and any provider(s) that responded to the notice publishing the intention to follow the most suitable provider process, for further information that would help decision-making, as necessary.
7. Must identify potential providers that may be the most suitable provider, taking into account the providers it understands are likely to have the ability to deliver services to the relevant (local/regional/national) population and any provider(s) that responded to its notice publishing the intention to follow the most suitable provider process, with reference to the key criteria and the basic selection criteria.
8. Must assess the potential providers identified, considering the key criteria and applying the basic selection criteria in a fair way across them (i.e., on the same basis), and choose the most suitable provider(s) to which to make an award.
9. Must publish a notice containing its intention to award the contract to the chosen provider (see transparency) and observe the standstill period (see standstill period).
10. May enter into a contract with the chosen provider after the standstill period has concluded.
11. Must publish a notice confirming the award of the contract within 30 days of the contract being awarded.

Relevant authorities are expected to use their established knowledge of potential providers (see provider landscape). Relevant authorities may approach providers and ask for information as necessary but are advised to take a proportionate approach.

Relevant authorities must be able to demonstrate that they have understood the alternative providers and reached a reasonable decision when selecting a provider – but this does not need to be via a formal competitive exercise. Relevant authorities must keep robust records of these considerations and follow the relevant transparency requirements (see transparency). They may need to disclose information on the rationale for their decision if a representation is made (see standstill period).

If at any point in the most suitable provider process the relevant authority has insufficient information to make an assessment under the most suitable provider process, for example, because it did not receive sufficient information to help its decision-making, it is advised to

use the competitive process. If the relevant authority fails to identify the most suitable provider (or a group of providers), then it must follow the approach for the competitive process to select a provider or abandon the selection process all together if appropriate.

If the relevant authority decides to switch provider selection approach after it published its intended approach notice, then it must abandon the selection process before switching provider selection approach.

Relevant authorities must consider the exclusions in Regulation 20 and apply as appropriate.

### **Further information**

Relevant authorities are expected to develop and maintain a sufficiently detailed knowledge of relevant providers that have the capability to meet the needs of patients within the relevant geographical footprint, which can be used to identify suitable providers (see provider landscape). Relevant authorities may identify suitable providers through market research, regular engagement with providers, registers of relevant providers or responses to their intention to follow the most suitable provider process notice.

#### **17.4.5 The competitive process**

Regulations 6(7) and 11 set out the process that relevant authorities must follow when awarding a contract under the competitive process.

#### **Conducting a competitive procurement exercise**

This provider selection process must be followed when the relevant authority is not required to follow direct award processes A or B, and the relevant authority cannot or does not wish to follow direct award process C or the most suitable provider process (for example, because it has not been able to identify a most suitable provider or because it wishes to test the market).

This provider selection process must be used when concluding a framework agreement and may be used when awarding a contract based on a framework agreement, in accordance with the terms of that framework agreement (see framework agreements).

#### **Following this provider selection process**

The steps outlined in the Regulations and the transparency requirements must be adhered to. Relevant authorities may determine additional procedures to be applied in selecting a provider using the competitive process, taking into account the specificities of the services in question to design a bespoke procedure.

When following the competitive process, relevant authorities:

1. Will need to develop a service specification setting out the relevant authority's requirements for the service. In doing so, relevant authorities may consider undertaking a pre-market engagement exercise.
2. Must determine the contract or framework award criteria for the service in question, taking into account the key criteria and applying the basic selection criteria (see key criteria and basic selection criteria).
3. Must formally advertise the opportunity to bid (see transparency) and ensure providers are given a reasonable timeframe to respond. The advertisement must include information relating to how bids will be assessed, including whether the different award criteria will be assessed in stages.
4. Must assess any bids received by following the assessment process – that is, against the award criteria, and the exclusion criteria set out in Regulation 20, in a fair way across all bids (i.e., on the same basis). This may be done in stages, in accordance with step 3 above.
5. Must identify the successful provider (or group of providers).



6. Must inform in writing the successful provider (or group of providers) of its intention to award a contract or conclude a framework agreement, and must also inform in writing each unsuccessful provider that its bid has been unsuccessful.
7. Must publish a notice of its intention to award the contract to or conclude a framework agreement with the chosen provider (or group of providers) (see transparency) and observe the standstill period (see standstill period).
8. May enter into a contract or conclude a framework agreement with the chosen provider (or group of providers) after the standstill period has concluded.
9. Must publish a notice confirming the award of the contract within 30 days of the contract being awarded.

The award criteria referred to above consist of the basic selection criteria, the key criteria and any other elements of the contract award. These components can be assessed in stages – for example, a provider that does not meet the basic selection criteria may be discounted without further assessment.

Relevant authorities may engage in dialogue or negotiate with all bidders or with shortlisted bidders prior to determining who to award a contract and with a view to improving on initial offers, provided that they do so in a fair and proportionate way and treat all bidders equally.

Relevant authorities must keep records of the procedure followed to select a provider (including details of the bespoke procedure), of how each bid performed against the award criteria and the rationale for selecting the successful bidder (see transparency). Relevant authorities must consider the exclusions in Regulation 20 and apply as appropriate.

The Trust should follow the tendering procedure described in SFI 16.71 to 16.7.7 when implementing the PSR Competitive Process.

## **17.5 Framework agreements**

Framework agreements are defined in Regulation 16.

Relevant authorities may establish framework agreements under the PSR to arrange health care services in scope of the regime (or that are categorised as mixed procurements within the regime).

### **What is a framework agreement?**

Framework agreements for the purposes of this regime are agreements in relation to health care services in scope of this regime between one or more relevant authorities and one or more providers. Framework agreements set out the terms and conditions based on which the provider will enter into one or more contracts with a relevant authority, during the period the framework agreement is in place.

The relevant authority (or relevant authorities) that may award contracts based on the framework agreement must be identified in the framework agreement (either by name or by describing the type of relevant authority), and contracts awarded based on a framework agreement must only be between the relevant authority (or relevant authorities) identified in the framework agreement and a provider that is party to the framework agreement.

The length of a framework agreement must not exceed four years, other than in exceptional cases where the relevant authority is satisfied that the subject-matter of the framework agreement justifies a longer term.

The terms and conditions of a framework agreement may be modified in line with the requirements for contract modification for this regime (see contract modifications).

### **Concluding a framework agreement**

The process that must be followed when concluding a framework agreement is set out in Regulation 16.

The process that must be followed when adding providers to an existing framework agreement is set out in Regulation 17.

When concluding a framework agreement, relevant authorities must use the competitive process to select provider(s) to be party to the framework agreement.

During the term of a framework agreement, providers may be added to a framework agreement. Relevant authorities are advised to set out how and when this might be done in the terms and conditions of that framework agreement. Relevant authorities must use the approach for the competitive process to add providers to the framework agreement, and relevant authorities are advised to use the same award criteria as when setting up the original framework agreement.

When concluding a framework agreement, relevant authorities must set out the duration of the framework agreement and which relevant authorities can award contracts based on the framework agreement. Relevant authorities are expected to set out:

- the terms for awarding a contract based on the framework agreement
- how the framework agreement will operate
- how the call-off procedures will operate (see below)
- how new providers or relevant authorities can be added to the framework agreement at a later date (if applicable).

Relevant authorities must not conclude a framework agreement with a provider and may exclude a provider from the procurement process if the provider meets the exclusion criteria detailed in Regulation 20. Relevant authorities are advised to set out in the terms and conditions of their framework agreement that they may remove a provider from the framework agreement if that provider meets the exclusion criteria.

### **Awarding contracts based on a framework agreement**

The processes that must be followed when awarding a contract based on a framework agreement are defined in Regulation 18.

Only relevant authorities that are identified as being able to award contracts under the framework agreement may award contracts to providers that are party to that same framework agreement. Relevant authorities may decide that the award criteria for awarding contracts under a framework agreement are different from those for concluding the framework.

Relevant authorities must award a contract under a framework agreement in accordance with the terms and conditions of that framework agreement.

If awarding a contract based on a framework agreement, relevant authorities may do so in one of the following ways:

- without competition if the framework agreement only includes one provider (via a 'direct award')
- if the framework agreement includes more than one provider, choose whether to award the contract:
  - without a further competition (via 'direct award'), or
  - by following the competitive process (via a 'mini-competition').

In all these scenarios, relevant authorities must make decisions in accordance with the framework agreement.

If awarding a contract based on a framework agreement without competition (via a 'direct award'), relevant authorities must:

- publish a notice confirming the decision notice within 30 days of the contract being awarded (see transparency section and Annex B).



If awarding a contract based on a framework agreement following a competitive process (via a 'mini-competition'), relevant authorities must:

- follow the process for the competitive process, substituting step 2 (the step advertising the opportunity to the market' with 'invite providers party to the framework to submit an offer'
- follow the terms and conditions of the framework agreement, including how competitions must run when awarding a contract based on that framework agreement (if this is set out)
- follow the relevant transparency requirements (see transparency section and Annex B)
- observe the standstill period as required for the competitive process (see standstill period).

When awarding a contract from a framework agreement, the term of the contract may exceed the length of the framework agreement.

Contracts awarded from a framework agreement are expected to not exceed the total value of the framework agreement.

## 17.6 Key criteria

### Overview

The PSR key criteria are defined in Regulation 5.

Five key criteria must be considered when making decisions about provider selection under direct award process C, the most suitable provider process, and the competitive process of this regime. Annex D to this guidance provides detail on what each criterion covers. In summary, these criteria are:

- **Quality and innovation**, that is the need to ensure good quality services and the need to support the potential for the development of new or significantly improved services or processes that will improve the delivery of health care or health outcomes.
- **Improving access, reducing health inequalities and facilitating choice**, that is ensuring accessibility to services and treatments for all eligible patients, improving health inequalities and the ensuring that patients have choice in respect of their health care.
- **Social value**, that is whether what is proposed might improve economic, social and environmental well-being in the geographical area relevant to a proposed contracting arrangement.

### Application of key criteria

Relevant authorities must consider each of the key criteria in the regime when making decisions under direct award process C, the most suitable provider process and the competitive process (including when concluding a framework agreement and when awarding a contract based on a framework agreement using the competitive process). Under these processes, relevant authorities must be able to justify their decisions when following a provider selection process in relation to the key criteria and keep a record of this. Further detail on recording decision-making and transparency can be found in the transparency section.

How relevant authorities assess providers against the key criteria, including what evidence they consider, may vary according to the service they want to procure. A relevant authority may wish to address specific priorities; these are expected to be described as part of the key criteria and can be considered when deciding the relative importance of the key criteria.

Relevant authorities must be aware that equalities duties in the Equality Act 2010, including the Public Sector Equality Duty, are relevant to all criteria and due regard to these requirements must be given when considering each criterion.

### **Balancing the key criteria**

The relative importance of the key criteria is not predetermined by the Regulations or this guidance and there is no prescribed hierarchy or weighting for each criterion. Relevant authorities must decide the relative importance of the key criteria for each decision they make under this regime, based on the proposed contracting arrangements and what they are seeking to achieve from them/the services, including scenarios where a particular criterion is 'pass/fail', or where certain key criteria are of equal importance. All criteria must be considered, and none is expected to be discounted when following a provider selection process.

The regime does not specify how relevant authorities must balance the key criteria; however, relevant authorities are expected to be aware of wider requirements or duties when considering procurement decisions. For example, NHS England, ICBs, NHS trusts and NHS foundation trusts are expected to adhere to NHS England's net zero ambitions and its social value commitment, and the need to ensure value for money when arranging health care services (this list is not exhaustive). The flexibilities offered by the regime do not mean that relevant authorities are exempt from complying with their other obligations.

Relevant authorities are advised to consider particularly carefully the relative importance of the value criterion when making assessments under the most suitable provider process.

It is advised that for provider selection processes with higher contract values, greater focus is given to value for money and the quality and efficiency of the services to be provided, unless this means the service does not best meet the needs of the population it is serving.

When making assessments against the key criteria under direct award process C and the most suitable provider process, relevant authorities are expected to use information and evidence from a range of sources, as well as their knowledge and experience of working with providers. They can ask providers for further information to assist with this assessment if they wish. The explanation of each criterion in Annex D includes examples of relevant sources where appropriate.

When following the competitive process relevant authorities must only use the information contained in the bid to assess the bid. Relevant authorities may set out in their tender documents that wilful misrepresentation of a bid by a provider will result in exclusion from the provider selection process.

Relevant authorities must justify and record how they have given relative importance to each of the key criteria for the service they are arranging. Further detail on recording decision-making can be found in the transparency section.

Relevant authorities must ensure they meet other relevant statutory duties when deciding the relative importance of each of the criteria, including normal public law decision-making principles around reasonableness of decisions. Relevant authorities are also expected to consider other national and local policies and non-statutory guidance when deciding the relative importance of each of the criteria.

## **17.7 Transparency**

The relevant information keeping requirements are detailed in Regulation 24.

The requirements for the transparency notices, including the content of the notices, are detailed in Schedules 2 to 15.

Relevant authorities are required to evidence that they have properly exercised the responsibilities and flexibilities conferred on them by the regime, to ensure that there is proper

scrutiny and accountability of decisions made about health care services. This section sets out the steps that relevant authorities must take to be transparent in their decision-making under this regime.

There are several elements to the transparency process under this regime – these apply differently according to which decision-making process is being applied. Annex B provides detailed information about the transparency requirements for all processes under the PSR.

Relevant authorities must follow the transparency process relevant to the approach being followed.

In all circumstances, relevant authorities must keep internal records of their decision-making processes and must publish notices confirming their decision to award a contract.

When following the most suitable provider process relevant authorities must also make their intentions clear in advance by issuing a notice.

When following direct award process C, the most suitable provider process and the competitive process (including when concluding a framework agreement and when awarding a contract based on a framework agreement using the competitive process) relevant authorities must also communicate their decision to award a contract publicly and observe a standstill period during which representations can be made. The standstill period must end before contracts can be awarded.

All transparency notices referred to in this section must be published using the UK e-notification service, the Find a Tender Service (FTS). The information that must be included in the transparency notices is set out in Annex B and relevant authorities should refer to the separate guide to publishing these notices on FTS.

Relevant authorities can publish information on their decision-making in other places as well if they wish, such as Contracts Finder.

In addition to the transparency notices required under the various provider selection processes, relevant authorities must publish transparency notices when they are abandoning a provider selection process, when making an urgent award or contract modification or when undertaking certain non-urgent contract modifications.

### **17.8 Keeping records of decision-making**

The relevant information requirements are detailed in Regulation 24.

Relevant authorities must make and keep clear records detailing their decision-making process and rationale. This must be done for all provider selection processes (direct award process A, B and C, the most suitable provider process, and the competitive process), when concluding a framework agreement, when awarding a contract based on a framework agreement without competition, and when awarding a contract based on a framework agreement following the competitive process. This includes where a provider selection process was abandoned or where the relevant authority decided to return to an earlier step in the process. Records must include:

- name of the provider to which the contract has been awarded or the name of any provider who is a party to a framework agreement and the address of their registered office or principal place of business
- the decision-making process followed to select a provider(s), including details of the procedure used when the competitive process is followed
- the reasons for these decisions
- details of the individual/individuals making the decision
- any declared or potential conflicts of interest for individuals involved in decision-making and how these were managed
- where a procurement is abandoned, the date on which it is abandoned.

We expect that records are kept when contracting for mixed procurements, including how the procurement meets the requirements for mixed procurements under this regime.

When following direct award process C or the most suitable provider process, records must also include:

- a description of the way in which the key criteria (e.g., weighting, hierarchy, or more informal description of importance) were taken into account, and how the basic selection criteria were assessed when making decisions. We expect that this includes the relative importance of the key criteria that the relevant authority used to make a decision, the rationale for the relative importance of the key criteria, and the rationale for choosing the provider with reference to the key criteria.

When following the competitive process (including when concluding a framework agreement or when awarding a contract based on a framework agreement following the competitive process), records must also include:

- a description of the way in which the key criteria were taken into account, the basic selection criteria were assessed, and contract or framework award criteria were evaluated when making a decision. We expect that this includes the relative importance of the key criteria that the relevant authority used to make a decision, the rationale for the relative importance of the key criteria, and the rationale for choosing the provider with reference to the key criteria.

When concluding a framework agreement, we expect that records include the terms and conditions that will be laid down by the framework agreement, and include which relevant authorities are part of the framework agreement. When awarding a contract from a framework agreement, we expect that records include which framework agreement the contract is being awarded from.

Relevant authorities must be aware that they may need to disclose information on the rationale for their decision making under the Regulations if a representation is made (see standstill period). We expect relevant authorities to keep their records for a period of time that is in line with their organisation's record keeping policies and any applicable legislation. Relevant authorities are also expected to keep records of their decisions and decision-making processes when modifying a contract.

### **Keeping records of decision-making in urgent circumstances**

When awarding or modifying a contract in an urgent circumstance, relevant authorities must make and keep clear records detailing their decision-making process and rationale. Records must include:

- justification for using the urgent circumstances exemption
- name of the provider(s) to which the contract has been awarded and the address of its registered office or principal place of business
- the approach taken to select a provider and the process followed (i.e., urgent circumstance)
- details of the individual/individuals making the decision
- any declared or potential conflicts of interest of individuals making the decision (not including individual names) and how these were managed.

We expect that records are kept when contracting for mixed procurements, including how the procurement meets the requirements for mixed procurements under this regime.

## **17.9 Annual summary**

The annual summary requirements are set out in Regulation 25.

Relevant authorities must publish a summary of their application of the PSR annually online (e.g., via the relevant authority's annual reports or annual governance statement). We expect the first annual summary to relate to contracts awarded using the PSR between 1 January 2024 – 31 March 2025, and we expect this to be published no later than six months following the end of 2024/2025 financial year. Following the first annual summary, all other annual summaries must be published no later than six months following the end of the financial year it relates to.

This must include, in the year to which the summary relates, the:

- number of contracts directly awarded under direct award processes A, B or C
- number of contracts awarded under the most suitable provider process
- number of contracts awarded under the competitive process
- number of framework agreements concluded
- number of contracts awarded based on a framework agreement
- number of urgent contracts awarded and urgent modifications (in line with the urgent awards or contract modifications section)
- number of new providers awarded contracts
- number of providers who ceased to hold any contracts with the relevant authority
- details of representations received, including:
  - the number of representations received in writing and during the standstill period in accordance with Regulation 12(3)
  - summary of the outcome of all representations received and of the nature and impact of those representations.

In addition, relevant authorities are expected to publish:

- total number of providers the relevant authority is currently contracted with
- details of any PSR review panel reviews:
  - number of requests for consideration received by the PSR review panel
  - number of requests accepted and rejected by the PSR review panel for consideration
  - number of times where the PSR review panel advised the relevant authority to re-run or go back to an earlier step in a provider selection process under the PSR, and the number of times the advice was followed.

## **17.10 Monitoring requirements**

The monitoring requirements are set out in Regulation 26.

Relevant authorities must monitor their compliance with the Regulations. The results of the monitoring must be published online annually (and may be integrated into other annual reporting requirements) and include processes, decisions made under the PSR, contract modifications, and declaration and management of conflicts of interests. Relevant authorities may use internal auditors to fulfil these requirements.

If a compliance report finds instance(s) of non-compliance, relevant authorities must put in place actions to address this issue and to improve adherence with the regime.

## **18. Terms of Service, Allowances and Payment of Members of the Board and Employees**

### **18.1 Remuneration and Terms of Service (see also SO 4)**

- 18.1.1 In accordance with Standing Orders the Board shall establish a Remuneration and Nominations Committee, with clearly defined terms of reference, specifying which

posts fall within its area of responsibility, its composition, and the arrangements for reporting.

18.1.2 The Committee will:

- (a) advise the Board about appropriate remuneration and terms of service for the Chief Executive, other Executive Directors employed by the Trust, and other senior employees (if any) as it is designated to consider, including:
  - (i) all aspects of salary (including any performance-related elements/bonuses);
  - (ii) provisions for other benefits, including pensions and cars;
  - (iii) arrangements for termination of employment and other contractual terms;
- (b) make such recommendations to the Board on the remuneration and terms of service of Executive Trust Board members (and other senior employees) to ensure they are fairly rewarded for their individual contribution to the Trust - having proper regard to the Trust's circumstances and performance and to the provisions of any national arrangements for such Board members and staff where appropriate;
- (c) ensure in consultation with the Chief Executive, that the performance of individual Executive Directors is regularly monitored and evaluated
- (d) advise on and oversee appropriate contractual arrangements for such staff including the proper calculation and scrutiny of termination payments taking account of such national guidance as is appropriate.

18.1.3 The Committee shall report in writing to the Board the basis for its recommendations. The Board shall use the report as the basis for their decisions but remain accountable for taking decisions on the remuneration and terms of service of Executive Directors. Minutes of the Board's meetings should record such decisions.

18.1.4 The Board will consider and need to approve proposals presented by the Chief Executive for the setting of remuneration and conditions of service for those employees and officers not covered by the Committee.

18.1.5 The Trust will pay allowances to the Chair and Non-Executive Directors in accordance with instructions issued by the Council of Governors.

18.1.6 The Committee will approve recruitment and retention premia awarded to any member of staff not covered by Agenda for Change where there are national recruitment and retention pressures (for example medical consultants).

## **18.2 Funded Establishment**

18.2.1 The manpower plans incorporated within the annual budget will form the funded establishment.

18.2.2 The funded establishment of any department may not be varied without the approval of the Chief Executive.

## **18.3 Staff Appointments**

18.3.1 No Trust Board member or officer may engage, re-engage, or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to changes in any aspect of remuneration:

- (a) unless authorised to do so by the Chief Executive
  - (b) within approved Scheme of Delegation
- 18.3.2 The Board will approve procedures presented by the Chief Executive for the determination of commencing pay rates, condition of service, etc, for employees.
- 18.4 Processing Payroll**
- 18.4.1 The Director of Finance is responsible for:
  - (a) specifying timetables for submission of properly authorised time records and other notifications;
  - (b) the final determination of pay and allowances;
  - (c) making payment on agreed dates;
  - (d) agreeing method of payment.
- 18.4.2 The Director of Finance will issue instructions regarding:
  - (a) verification and documentation of data;
  - (b) the timetable for receipt and preparation of payroll data and the payment of employees and allowances;
  - (c) maintenance of subsidiary records for superannuation, income tax, social security and other authorised deductions from pay;
  - (d) security and confidentiality of payroll information;
  - (e) checks to be applied to completed payroll before and after payment;
  - (f) authority to release payroll data under the provisions of the Data Protection Act;
  - (g) methods of payment available to various categories of employees;
  - (h) procedures for payment by cheque, bank credit, or cash to employees, liaising as necessary with the Finance Directorate;
  - (i) procedures for the recall of cheques and bank credits, liaising as necessary with the Finance Directorate;
  - (j) pay advances and their recovery, liaising as necessary with the Finance Directorate;
  - (k) separation of duties of preparing records and handling cash;
  - (l) a system to ensure the recovery from those leaving the employment of the Trust of sums of money and property due by them to the Trust.
- 18.4.3 The Director of Finance will issue instructions regarding maintenance of regular and independent reconciliation of pay control accounts
- 18.4.4 Appropriately nominated managers have delegated responsibility for:

- (a) submitting time records, and other notifications in accordance with agreed timetables;
  - (b) completing time records and other notifications in accordance with the Director of Finance's instructions and in the form prescribed by the Director of Finance;
  - (c) submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee's resignation, termination or retirement. Where an employee fails to report for duty or to fulfill obligations in circumstances that suggest they have left without notice, the Director of Finance must be informed immediately.
- 18.4.5 Regardless of the arrangements for providing the payroll service, the Director of Finance shall ensure that the chosen method is supported by appropriate (contracted) terms and conditions, adequate internal controls and audit review procedures and that suitable arrangements are made for the collection of payroll deductions and payment of these to appropriate bodies.

## **18.5 Contracts of Employment**

- 18.5.1 The Board shall delegate responsibility to an officer for:
- (a) ensuring that all employees are issued with a Contract of Employment in a form approved by the Board and which complies with employment legislation;
  - (b) dealing with variations to, or termination of, contracts of employment.

## **19. Non Pay Expenditure**

### **19.1 Delegation of Authority**

- 19.1.1 The Board will approve the level of non-pay expenditure on an annual basis and the Chief Executive will determine the level of delegation to budget managers.
- 19.1.2 The Chief Executive will set out:
- (a) the list of managers who are authorised to place requisitions for the supply of goods and services;
  - (b) the maximum level of each requisition and the system for authorisation above that level.
- 19.1.3 The Chief Executive shall set out procedures on the seeking of professional advice regarding the supply of goods and services.

### **19.2 Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services (See also SFI 16)**

#### **19.2.1 Requisitioning**

The requisitioner, in choosing the item to be supplied (or the service to be performed) shall always obtain the best value for money for the Trust. In so doing, the advice of the Trust's Procurement department should be sought. Where this advice is not acceptable to the requisitioner, the Director of Finance (and/or the Chief Executive) shall be consulted.



### 19.2.2 System of Payment and Payment Verification

The Director of Finance shall be responsible for the prompt payment of accounts and claims. Payment of contract invoices shall be in accordance with contract terms, or otherwise, in accordance with national guidance.

19.2.2.1 The Director of Finance will:

- (a) advise the Board regarding the setting of thresholds above which quotations (competitive or otherwise) or formal tenders must be obtained; and, once approved, the thresholds should be incorporated in Standing Financial Instructions and regularly reviewed
- (b) prepare procedural instructions or guidance within the Scheme of Delegation on the obtaining of goods, works and services incorporating the thresholds;
- (c) be responsible for the prompt payment of all properly authorised accounts and claims;
- (d) be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable. The system shall provide for:
  - (i) A list of officers and Board members (including specimens of their signatures) authorised to certify invoices should be submitted to Finance and Purchasing by each Business Unit/HQ Directorate. It is the responsibility of the Assistant or Deputy Director /Departmental Director to re-submit specimen signatures where staff changes occur.
  - (ii) Certification that:
    - goods have been duly received, examined and are in accordance with specification and the prices are correct;
    - work done or services rendered have been satisfactorily carried out in accordance with the order, and, where applicable, the materials used are of the requisite standard and the charges are correct;
    - in the case of contracts based on the measurement of time, materials or expenses, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, and price and the charges for the use of vehicles, plant and machinery have been examined;
    - where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
    - the account is arithmetically correct;
    - the account is in order for payment.
    - Email authorisation of invoices is allowable up to the thresholds within the Scheme of Delegation
  - (iii) A timetable and system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment.

- (iv) Instructions to employees regarding the handling and payment of accounts within the Finance Department.
- (e) be responsible for ensuring that payment for goods and services is only made once the goods and services are received. The only exceptions are set out in SFI 19.2.4 below.

### **19.2.3 Prepayments**

Prepayments are only permitted where exceptional circumstances apply. In such instances:

- (a) Prepayments are only permitted where the financial advantages outweigh the disadvantages (i.e. cash flows must be discounted to NPV using the National Loans Fund (NLF) rate plus 2%).
- (b) The appropriate officer must provide, in the form of a written report, a case setting out all relevant circumstances of the purchase. The report must set out the effects on the Trust if the supplier is at some time during the course of the prepayment agreement unable to meet his commitments;
- (c) The Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed (taking into account the EU public procurement rules where the contract is above a stipulated financial threshold);
- (d) The budget holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the appropriate Director or Chief Executive if problems are encountered.

### **19.2.4 Official Orders**

Official Orders must:

- (a) be consecutively numbered;
- (b) be in a form approved by the Director of Finance;
- (c) state the Trust's terms and conditions of trade;
- (d) only be issued to, and used by, those duly authorised under the Scheme of Delegation

### **19.2.5 Duties of Managers and Officers**

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

- (a) all contracts (except as otherwise provided for in the Scheme of Delegation), leases, tenancy agreements and other commitments which may result in a liability are notified to the Director of Finance in advance of any commitment being made;
- (b) contracts above specified thresholds are advertised and awarded in accordance with EU rules on public procurement; (current thresholds are detailed in the Scheme of Delegation)
- (c) where consultancy advice is being obtained, the procurement of such advice must be in accordance with guidance issued by the Department of Health (The Procurement and Management of Consultants within the NHS)

- (d) where the item being procured is a capital investment or an estate or property transactions, the procurement must be in accordance with guidance issued by the Department of Health (Capital Investment Manual and Estatecode)
- (e) no order shall be issued for any item or items to any firm which has made an offer of gifts, reward or benefit to directors or employees, other than:
  - (i) isolated gifts of a trivial character or inexpensive seasonal gifts, such as calendars;
  - (ii) conventional hospitality, such as lunches in the course of working visits;

(This provision needs to be read in conjunction with SO 7 and 7.4.1)

- (f) no requisition/order is placed for any item or items for which there is no budget provision unless authorised by the Director of Finance on behalf of the Chief Executive;
- (g) all goods, services, or works are ordered on an official order except works and services executed in accordance with a contract, purchases from petty cash or purchases made using the Trust purchasing card process ;
- (h) verbal orders must only be issued very exceptionally - by an employee designated by the Chief Executive and only in cases of emergency or urgent necessity. These must be confirmed by an official order and clearly marked "Confirmation Order";
- (i) orders are not split or otherwise placed in a manner devised so as to avoid the financial thresholds;
- (j) goods are not taken on trial or loan in circumstances that could commit the Trust to a future uncompetitive purchase;
- (k) changes to the list of officers authorised to certify invoices are notified to the Director of Finance ;
- (l) purchases from petty cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance ;
- (m) petty cash records are maintained in a form as determined by the Director of Finance .

19.2.6 The Chief Executive and Director of Finance shall ensure that the arrangements for financial control and financial audit of building and engineering contracts and property transactions comply with the guidance contained within Concode and Estatecode. The technical audit of these contracts shall be the responsibility of the relevant Director.

### **19.3 Joint Finance Arrangements with Local Authorities and Voluntary Bodies**

19.3.1 Payments to local authorities and voluntary organisations made under the powers of section 28A of the NHS Act **shall** comply with procedures laid down by the Director of Finance which shall be in accordance with these Acts. (See also SO 9.1)

## **20. External Borrowing**

- 20.1.1 The Director of Finance will advise the Board concerning the Trust's ability to pay dividend on and repay Public Dividend Capital (PDC) and any proposed new borrowing, within the limits set by the Department of Health. The Director of Finance is also responsible for reporting periodically to the Board concerning the PDC debt and all loans and overdrafts.
- 20.1.2 The Board will agree the list of officers (including specimens of their signatures) who are authorised to make short term borrowings on behalf of the Trust. This must contain the Chief Executive and the Director of Finance.
- 20.1.3 The Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts.
- 20.1.4 All short-term borrowings should be kept to the minimum period of time possible, consistent with the overall cashflow position, represent good value for money, and comply with the latest guidance from the Department of Health.
- 20.1.5 Any short-term borrowing must be with the authority of two members of an authorised panel, one of which must be the Chief Executive or the Director of Finance. The Board must be made aware of all short term borrowings at the next Board meeting.
- 20.1.6 All long-term borrowing must be consistent with the plans outlined in the current Strategic Plan and be approved by the Board.

## **20.2 Investments**

- 20.2.1 Temporary cash surpluses must be held only in such public or private sector investments in accordance with the conditions set out in the Trust's Treasury Management Policy and the Independent Regulator's guidance "Managing Operating Cash in NHS Foundation Trusts"
- 20.2.2 The Director of Finance is responsible for advising the Board on investments and shall report periodically to the Board concerning the performance of investments held.
- 20.2.3 The Director of Finance will prepare detailed procedural instructions on the operation of investment accounts and on the records to be maintained. The Trust will comply with all the relevant guidance published in relation to investments.

## **21. Financial Framework**

- 21.1.1 The Director of Finance should ensure that Board members are aware of the Financial Framework. This document contains directions which the Trust must follow. The Director of Finance should also ensure that the direction and guidance in the framework is followed by the Trust.
- . The Board will ensure that funds are available for short term cashflow management and this maybe by negotiating an irrevocable working capital facility. The value of this facility shall not exceed 30 days worth of normal operating expenditure.

### **21.1.2 Use of Framework Agreements**

The Trust may utilise any available framework agreement to satisfy its requirements for works, services or goods but only if it complies with the requirements of Procurement Legislation in doing so, which include (but are not limited to) ensuring that:

- (a) the framework agreement was procured on its behalf. The Trust should satisfy itself that the original procurement process included the Trust within its scope;
- (b) the framework agreement includes the Trust's requirement within its scope. The Trust should satisfy itself that this is the case;
- (c) where the framework agreement is a multi-operator framework agreement, the process for the selection of providers to be awarded call-off contracts under the framework agreement is followed; and
- (d) the call-off contract entered into with the provider contains the contractual terms set out by the framework agreement.

## **22. Capital Investment, Private Financing, Fixed Asset Registers and Security of Assets**

### **22.1 Capital Investment**

#### **22.1.1 The Chief Executive:**

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

#### **22.1.2 For every capital expenditure proposal the Chief Executive shall ensure:**

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

#### **22.1.3 For capital schemes where the contracts stipulate stage payments, the Chief Executive will issue procedures for their management, incorporating the recommendations of Estatecode.**

#### **22.1.4 The Director of Finance shall assess on an annual basis the requirement for the operation of the construction industry tax deduction scheme in accordance with Inland Revenue guidance.**

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

#### **22.1.6 The approval of a capital programme shall not constitute approval for expenditure on any scheme.**

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

- (a) specific authority to commit expenditure;
- (b) authority to proceed to tender (see also SFI 16.9);
- (c) approval to accept a successful tender (see also SFI 16.9).

The Chief Executive will issue a Scheme of Delegation for capital investment management in accordance with Estatecode guidance and the Trust's Standing Orders.

- 22.1.7 The Director of Finance shall issue procedures governing the financial management, including variations to contract, of capital investment projects and valuation for accounting purposes. These procedures shall fully take into account the delegated limits for capital schemes included in Annex C of HSC (1999) 246.

## **22.2 Private Finance (See also SFI 16.10)**

- 22.2.1 The Trust should normally test for PFI when considering capital procurement. When the Trust proposes to use finance which is to be provided other than through its Allocations, the following procedures shall apply:
- (a) The Director of Finance shall demonstrate that the use of private finance represents value for money and genuinely transfers significant risk to the private sector.
  - (b) Where the sum involved exceeds delegated limits, the business case must be referred to the Department of Health or in line with any current guidelines.
  - (c) The proposal must be specifically agreed by the Board.

## **22.3 Asset Registers**

- 22.3.1 The Chief Executive is responsible for the maintenance of registers of assets, taking account of the advice of the Director of Finance concerning the form of any register and the method of updating, and arranging for a physical check of assets against the asset register to be conducted once a year.
- 22.3.2 The Trust shall maintain an asset register recording fixed assets. The minimum data set to be held within these registers shall be as specified in the Capital Accounting Manual or later guidance as issued by the Department of Health.
- 22.3.3 Additions to the fixed asset register must be clearly identified to an appropriate budget holder and be validated by reference to:
- (a) properly authorised and approved agreements, architect's certificates, supplier's invoices and other documentary evidence in respect of purchases from third parties;
  - (b) stores, requisitions and wages records for own materials and labour including appropriate overheads;
  - (c) lease agreements in respect of assets held under a finance lease and capitalised.
- 22.3.4 Where capital assets are sold, scrapped, lost or otherwise disposed of, their value must be removed from the accounting records and each disposal must be validated by reference to authorisation documents and invoices (where appropriate).

- 22.3.5 The Director of Finance shall approve procedures for reconciling balances on fixed assets accounts in ledgers against balances on fixed asset registers.
- 22.3.6 All assets are initially measured at cost and subsequently at fair value. For specialised buildings this involves a valuation based on modern equivalent assets (see accounting policies)
- 22.3.7 The value of each asset shall be depreciated using methods and rates as specified in the Independent Regulator's Financial Reporting Manual and IFRS.
- 22.3.8 The Director of Finance of the Trust shall calculate and pay capital charges as specified in the Capital Accounting Manual issued by the Department of Health.

## **22.4 Security of Assets**

- 22.4.1 The overall control of fixed assets is the responsibility of the Chief Executive.
- 22.4.2 Asset control procedures (including fixed assets, cash, cheques and negotiable instruments, and also including donated assets) must be approved by the Director of Finance. This procedure shall make provision for:
- (a) recording managerial responsibility for each asset;
  - (b) identification of additions and disposals;
  - (c) identification of all repairs and maintenance expenses;
  - (d) physical security of assets;
  - (e) periodic verification of the existence of, condition of, and title to, assets recorded;
  - (f) identification and reporting of all costs associated with the retention of an asset;
  - (g) reporting, recording and safekeeping of cash, cheques, and negotiable instruments.
- 22.4.3 All discrepancies revealed by verification of physical assets to fixed asset register shall be notified to the Director of Finance.
- 22.4.4 Whilst each employee and officer has a responsibility for the security of property of the Trust, it is the responsibility of Board members and senior employees in all disciplines to apply such appropriate routine security practices in relation to NHS property as may be determined by the Board. Any breach of agreed security practices must be reported in accordance with agreed procedures.
- 22.4.5 Any damage to the Trust's premises, vehicles and equipment, or any loss of equipment, stores or supplies must be reported by Board members and employees in accordance with the procedure for reporting losses.
- 22.4.6 Where practical, assets should be marked as Trust property.

## **23. Stores and Receipt of Goods**

### **23.1 General Position**

23.1.1 Stores, defined in terms of controlled stores and departmental stores (for immediate use) should be:

- (a) kept to a minimum;
- (b) subjected to annual stock take;
- (c) valued at the lower of cost and net realisable value.

### **23.2 Control of Stores, Stocktaking, Condemnations and Disposal**

- 23.2.1 Subject to the responsibility of the Director of Finance for the systems of control, overall responsibility for the control of stores shall be delegated to an officer by the Chief Executive. The day-to-day responsibility may be delegated by him/her to departmental officers and stores managers/keepers, subject to such delegation being entered in a record available to the Director of Finance. The control of any Pharmaceutical stocks shall be the responsibility of a designated Pharmaceutical Officer; the control of any fuel oil and coal of a designated estates manager.
- 23.2.2 The responsibility for security arrangements and the custody of keys for any stores and locations shall be clearly defined in writing by the designated manager/Pharmaceutical Officer. Wherever practicable, stocks should be marked as health service property.
- 23.2.3 The Director of Finance shall set out procedures and systems to regulate the stores including records for receipt of goods, issues, and returns to stores, and losses.
- 23.2.4 Stocktaking arrangements shall be agreed with the Director of Finance and there shall be a physical check covering all items in store at least once a year.
- 23.2.5 Where a complete system of stores control is not justified, alternative arrangements shall require the approval of the Director of Finance.
- 23.2.6 The designated Manager/Pharmaceutical Officer shall be responsible for a system approved by the Director of Finance for a review of slow moving and obsolete items and for condemnation, disposal, and replacement of all unserviceable articles. The designated Officer shall report to the Director of Finance any evidence of significant overstocking and of any negligence or malpractice (see also SFI 23). Procedures for the disposal of obsolete stock shall follow the procedures set out for disposal of all surplus and obsolete goods.

### **23.3 Goods Supplied by NHS Supply Chain**

- 23.3.1 For goods supplied via the NHS Supply Chain central warehouses, the Chief Executive shall identify those authorised to requisition and accept goods from the store. The authorised person shall check receipt against the delivery note before forwarding this to the Director of Finance who shall satisfy himself that the goods have been received before accepting the recharge.



## **24. Disposals and Condemnations, Losses and Special Payments**

### **24.1 Disposals and Condemnations**

#### **24.1.1 Procedures**

The Director of Finance must prepare detailed procedures for the disposal of assets including condemnations and ensure that these are notified to managers.

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

24.1.3 All unserviceable articles shall be:

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

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

### **24.2 Losses and Special Payments**

#### **24.2.1 Procedures**

The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments.

24.2.2 Any officer discovering or suspecting a loss of any kind must either immediately inform their head of department, who must immediately inform the Chief Executive and the Director of Finance or inform an officer charged with responsibility for responding to concerns involving loss. This officer will then appropriately inform the Director of Finance and/or Chief Executive. Where a criminal offence is suspected, the Director of Finance must immediately inform the police if theft or arson is involved if this has not already been done. In cases of fraud and corruption or of anomalies which may indicate fraud or corruption, the Director of Finance must inform the LCFS and the NHS Counter Fraud Authority.

The Director of Finance must notify NHS Counter Fraud Authority, the External Auditor and the Independent Regulator of all frauds.

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

- (a) the Board,
- (b) the External Auditor.

24.2.4 Within limits delegated to it by the Managing Public Money guidance the Board shall approve the writing-off of losses.

- 24.2.5 The Director of Finance shall be authorised to take any necessary steps to safeguard the Trust's interests in bankruptcies and company liquidations.
- 24.2.6 For any loss, the Director of Finance should consider whether any insurance claim can be made.
- 24.2.7 The Director of Finance shall maintain a Losses and Special Payments Register in which write-off action is recorded.
- 24.2.8 No special payments exceeding delegated limits shall be made without the prior approval of the Department of Health.
- 24.2.9 All losses and special payments must be reported to the Audit Committee annually

## **25. Information Technology**

### **25.1 Responsibilities and Duties of the Director of Finance**

- 25.1.1 The Director of Finance, who is responsible for the accuracy and security of the computerised financial data of the Trust, shall:
  - (a) devise and implement any necessary procedures to ensure adequate (reasonable) protection of the Trust's data, programs and computer hardware for which the Director is responsible from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998;
  - (b) ensure that adequate (reasonable) controls exist over data entry, processing, storage, transmission and output to ensure security, privacy, accuracy, completeness, and timeliness of the data, as well as the efficient and effective operation of the system;
  - (c) ensure that adequate controls exist such that the computer operation is separated from development, maintenance and amendment;
  - (d) ensure that an adequate management (audit) trail exists through the computerised system and that such computer audit reviews as the Director may consider necessary are being carried out.
- 25.1.2 The Director of Finance shall need to ensure that new financial systems and amendments to current financial systems are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.
- 25.1.3 The Director of Nursing shall publish and maintain a Freedom of Information (FOI) Publication Scheme, or adopt a model Publication Scheme approved by the Information Commissioner. A Publication Scheme is a complete guide to the information routinely published by a public authority. It describes the classes or types of information about our Trust that we make publicly available.
- 25.2 Responsibilities and Duties of Other Directors and Officers in Relation to Computer Systems of a General Application**
  - 25.2.1 In the case of computer systems which are proposed General Applications (i.e. normally those applications which the majority of Trust's in the Region wish to sponsor jointly) all responsible directors and employees will send to the Director of Finance :

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

### **25.3 Contracts for Computer Services with Other Health Bodies or Outside Agencies**

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

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

### **25.4 Risk Assessment**

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

### **25.5 Requirements for Computer Systems which have an Impact on Corporate Financial Systems**

Where computer systems have an impact on corporate financial systems the Director of Finance shall need to be satisfied that:

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

## **26. Patients' Property**

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

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

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

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

- 26.3 The Director of Finance must provide detailed written instructions on the collection, custody, investment, recording, safekeeping, and disposal of patients' property (including instructions on the disposal of the property of deceased patients and of patients transferred to other premises) for all staff whose duty is to administer, in any way, the property of patients. Due care should be exercised in the management of a patient's money in order to maximise the benefits to the patient.
- 26.4 Where Department of Health instructions require the opening of separate accounts for patients' moneys, these shall be opened and operated under arrangements agreed by the Director of Finance.
- 26.5 In all cases where property of a deceased patient is of a total value in excess of £5,000 (or such other amount as may be prescribed by any amendment to the Administration of Estates, Small Payments, Act 1965), the production of Probate or Letters of Administration shall be required before any of the property is released. Where the total value of property is £5,000 or less, forms of indemnity shall be obtained.
- 26.6 Officers should be informed, on appointment, by the appropriate departmental or senior manager of their responsibilities and duties for the administration of the property of patients.
- 26.7 Where patients' property or income is received for specific purposes and held for safekeeping the property or income shall be used only for that purpose, unless any variation is approved by the donor or patient in writing.

## **27. Funds Held on Trust**

### **27.1 Corporate Trustee**

- a) The Trust Board Acts as the Corporate Trustee for the Trust's charity Healthstars.
- b) The discharge of the Trust's corporate trustee responsibilities are distinct from its responsibilities for exchequer funds and may not necessarily be discharged in the same manner, but there must still be adherence to the overriding general principles of financial regularity, prudence and propriety. Trustee responsibilities cover both charitable and non-charitable purposes.
- c) The Director of Finance shall ensure that each trust fund which the Trust is responsible for managing is managed appropriately with regard to its purpose and to its requirements.

### **27.2 Accountability to Charity Commission and Secretary of State for Health**

- (a) The trustee responsibilities must be discharged separately and full recognition given to the Trust's dual accountabilities to the Charity Commission for charitable funds held on trust and to the Secretary of State for all funds held on trust.
- (b) The Schedule of Matters Reserved to the Trust Board and the Scheme of Delegation make clear where decisions regarding the exercise of discretion regarding the disposal and use of the funds are to be taken and by whom. All Trust Board members and Trust Officers must take account of that guidance before taking action.

### **27.3 Applicability of Standing Financial Instructions to Funds held on Trust**

- a) In so far as it is possible to do so, most of the sections of these Standing Financial Instructions will apply to the management of funds held on trust. See also SFI No 16.18).
- b) The over-riding principle is that the integrity of each Trust must be maintained and statutory and Trust obligations met. Materiality must be assessed separately from Exchequer activities and funds.

### **28. Acceptance of Gifts by Staff and Link to Standards of Business Conduct (See also SO 6 and SO 7.4.1)**

The Director of Finance shall ensure that all officers are made aware of the Trust's Standards of Business and Managing Conflicts of Interest policy for NHS Staff on acceptance of gifts and other benefits in kind by officers. This policy follows the guidance published by NHS England) and is also deemed to be an integral part of these Standing Orders and Standing Financial Instructions.

### **29. Retention of Records**

- 29.1 The Chief Executive shall be responsible for maintaining archives for all records required to be retained in accordance with Department of Health guidelines.
- 29.2 The records held in archives shall be capable of retrieval by authorised persons.
- 29.3 Records held in accordance with latest Department of Health guidance shall only be destroyed at the express instigation of the Chief Executive. Detail shall be maintained of records so destroyed.

### **30. Risk Management and Insurance**

#### **30.1 Programme of Risk Management**

The Chief Executive shall ensure that the Trust has a programme of risk management, in accordance with current Department of Health assurance framework requirements, which must be approved and monitored by the Board.

The programme of risk management shall include:

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

The existence, integration and evaluation of the above elements will assist in providing a basis to make an Annual Governance Statement within the Annual Report and Accounts as required by current Monitor guidance.

### **30.2 Insurance: Risk Pooling Schemes Administered by NHSLA**

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

### **30.3 Insurance Arrangements with Commercial Insurers**

30.3.1 There is a general prohibition on entering into insurance arrangements with commercial insurers. There are, however, **three exceptions** when Trust's may enter into insurance arrangements with commercial insurers. The exceptions are:

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

#### **30.4.1 Arrangements to be Followed by the Trust Board in Agreeing Insurance Cover**

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

## **Statutory Roles and Responsibilities of the Council of Governors**

Subject always to provisions of the Constitution, the Governors shall have the following statutory roles and responsibilities:-

- Appoint and, if appropriate, remove the chair (Constitution paragraph 26);
- Appoint and, if appropriate, remove the other non-executive directors (Constitution paragraph 26);
- Decide the remuneration and allowances, and the other terms and conditions of office, of the chair and the other non-executive directors (Constitution paragraph 33);
- Approve (or not) the appointment of the chief executive (Constitution paragraph 28);
- Appoint and, if appropriate, remove the NHS foundation trust's auditor (Constitution paragraph 38);
- Receive the NHS foundation trust's annual accounts, any report of the auditor on them and the annual report at a general meeting of the Council of Governors (Constitution paragraph 44);
- Hold the non-executive directors, individually and collectively, to account for the performance of the Trust Board (Constitution paragraph 16);
- Represent the interests of the members of the Trust as a whole and the interests of the public (Constitution paragraph 12);
- Approve 'significant transactions' (Constitution paragraph 46);
- Approve an application by the Trust to enter into a merger, acquisition, separation or dissolution (Constitution paragraph 46);
- Decide whether the Trust's non-NHS work would significantly interfere with its principle purpose, which is to provide goods and services for the health service in England or performing its other functions (Constitution paragraph 41);
- Approve amendments to the Trust's constitution (Constitution paragraph 44).