

Bridgewater Community Healthcare NHS Foundation Trust

Constitution



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Core Constitution

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1. Interpretation and definitions

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

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

the 2006 Act is the National Health Service Act 2006.

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

Annual Members Meeting is defined in paragraph 10A of the Constitution.

Constitution means this constitution and all annexes to it.

The Regulator, NHS Improvement, previously known as Monitor, is the body corporate, as provided by Section 61 of the 2012 Act, which is now part of NHS Improvement

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

the **Trust Secretary** is the person appointed from time to time to be the Trust's Company Secretary.

2. Name

The name of the foundation trust is Bridgewater Community Healthcare NHS Foundation Trust (the Trust).

3. Principal purpose

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

3.2 The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the

purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.

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

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

3.3.2 the promotion and protection of public health.

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

4. Powers

4.1 The powers of the Trust are set out in the 2006 Act.

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

4.3 Any of these powers may be delegated to a Committee of Directors or to an Executive Director.

5. Membership and constituencies

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

5.1 a public constituency; or

5.2 a staff constituency.

6. Application for membership

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

7. Public Constituencies

- 7.1** An individual who lives in an area specified in Annex 1 as an area for a public constituency may become or continue as a member of the Trust.
- 7.2** Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the Public Constituency.
- 7.3** The minimum number of members in each Public Constituency is specified in Annex 1.

8. Staff Constituency

- 8.1** An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the Trust provided:
 - 8.1.1** he is employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
 - 8.1.2** he has been continuously employed by the Trust under a contract of employment for at least 12 months.
- 8.2** Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become or continue as members of the Staff Constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.
- 8.3** Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.4** The Staff Constituency shall be divided into six descriptions of individuals who are eligible for membership of the Staff Constituency,

each description of individuals being specified within Annex 2 and being referred to as a class within the Staff Constituency.

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

Automatic membership by default – staff

- 8.6** An individual who is:

8.6.1 eligible to become a member of the Staff Constituency; and

8.6.2 invited by the Trust to become a member of the Staff Constituency and a member of the appropriate class within the Staff Constituency;

shall become a member of the Trust as a member of the Staff Constituency and appropriate class within the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

9. NOT USED

10. Restriction on membership

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

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

10.3 An individual must be at least 14 years old to become a member of the Trust.

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

10A. Annual Members' Meeting

10A.1 The Trust shall hold an annual meeting of its members ('Annual Members' Meeting'). The Annual Members' Meeting shall be open to members of the public and may be combined with the Annual General Meeting of the Trust.

10A.2 Further provisions about the Annual Members' Meeting are set out in Annex 10 – Annual Members' Meeting.

11. Council of Governors – composition

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

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

11.3 The frequency of elections for the Council of Governors is specified in Annex 3.

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

12. Council of Governors – election of Governors

- 12.1** Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules on the basis of single transferable vote (STV) polling and the Model Election Rules shall be construed accordingly.
- 12.2** The Model Election Rules as published from time to time by NHS Providers form part of this Constitution. The Model Election Rules current at the date of the Trust's Authorisation are attached at Annex 5
- 12.3** A subsequent variation of the Model Election Rules by the Department of Health shall not constitute a variation of the terms of this Constitution for the purposes of paragraph 41 of this Constitution (amendment of the Constitution).
- 12.4** An election, if contested, shall be by secret ballot.

13. Council of Governors - tenure

- 13.1** An elected Governor's term of office shall initially be 2 or 3 years in duration.
- 13.2** An elected Governor shall be eligible for re-election at the end of their term but may not hold office for more than 9 years in aggregate unless:
- 13.2.1** there is a break from office of at least one calendar year within any aggregate period of 9 years of office; or
- 13.2.2** at least one calendar year has elapsed between the end of the ninth year and the date when they are nominated for election for a further term of office.
- 13.3** An elected Governor shall cease to hold office if they cease to be a member of the constituency or class by which he was elected
- 13.4** NOT USED
- 13.5** An organisation specified in the constitution (Annex 2) as a partnership organisation may appoint a member of the Council of Governors.

13.6 An appointed Governor may hold office for a period of up to 9 years.

13.7 An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship of them.

13.8 An appointed Governor shall be eligible for re-appointment at the end of their term, by agreement between the appointing organisation and the Chair of the Trust.

14. Council of Governors – disqualification and removal

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

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

14.1.2 a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)

14.1.3 a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in relation to it

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

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

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

14.4 Further provisions as to the circumstances in which an individual may be removed as a member of the Council of Governors are set out in Annex 6.

14A. Council of Governors – duties of Governors

14A.1 The general duties of the Council of Governors are:

14A.1.1 to hold the Non-Executive to account for the performance of the Board of Directors; and

14A.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

14A.2 The Trust must take steps to secure that the Governors are equipped with the skills and knowledge they require in their capacity as such.

15. Council of Governors – meetings of Governors

15.1 The Chair of the Trust (i.e. the Chair of the Board of Directors, appointed in accordance with the provisions of paragraph 22.1 or, in their absence the Deputy Chair (appointed in accordance with the provisions of paragraph 24 below), shall preside at meetings of the Council of Governors.

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

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

16. Council of Governors – standing orders

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

17. Council of Governors - conflicts of interest of Governors

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

18. Council of Governors – travel expenses

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

19. Council of Governors – further provisions

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

20. Board of Directors – composition

20.1 The Trust is to have a Board of Directors, which shall comprise both Executive and Non-Executive Directors.

20.2 The Board of Directors is to comprise:

20.2.1 a Non-Executive Chair;

20.2.2 up to six other Non-Executive Directors; and

20.2.3 up to five Executive Directors.

20.3 One of the Executive Directors shall be the Chief Executive.

20.4 The Chief Executive shall be the Accounting Officer.

20.5 One of the Executive Directors shall be the Finance Director.

20.6 One of the Executive Directors is to be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984).

20.7 One of the Executive Directors is to be a registered nurse or a registered midwife.

20A. Board of Directors – general duty

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

21. Board of Directors – qualification for appointment as a Non-Executive Director

A person may be appointed as a Non-Executive Director only if:

21.1 they are a member of a Public Constituency; and

21.2 NOT USED;

21.3 NOT USED;

21.4 they are not disqualified by virtue of paragraph 27 below.

22. Board of Directors – appointment and removal of Chair and other Non-Executive Directors

22.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Trust and the other Non-Executive Directors.

22.2 Removal of the Chair or another Non-Executive Director shall require the approval of three-quarters of the members of the Council of Governors.

22.3 The Chair or Non-Executive Director term of office shall initially be 3 years in duration.

22.4 The Chair or Non-Executive Director shall be eligible for reappointment at the end of their term, not exceeding 9 years in total.

23 NOT USED

24 Board of Directors – appointment of deputy Chair

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-Executive Directors as a Deputy Chair.

25 Board of Directors - appointment and removal of the Chief Executive and other Executive Directors

25.1 The Non-Executive Directors shall appoint or remove the Chief Executive.

25.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.

25.3 NOT USED

25.4 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

26 NOT USED

27 Board of Directors – disqualification

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

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

27.2 a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)

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

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

27A. Board of Directors - meetings

27A.1 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.

27A.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

28 Board of Directors – standing orders

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

29 Board of Directors - conflicts of interest of Directors

29.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

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

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

29.2 The duty referred to in subparagraph 29.1.1 is not infringed if:

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

29.2.2 the matter has been authorised in accordance with this Constitution.

29.3 The duty referred to in sub-paragraph 29.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

29.4 In subparagraph 29.1.2, “third party” means a person other than:

29.4.1 the Trust; or

29.4.2 a person acting on its behalf.

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

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

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

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

29.9 A Director need not declare an interest:

29.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

29.9.2 If, or to the extent that, the Directors are already aware of it;

29.9.3 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:

29.9.3.1 by a meeting of the Board of Directors; or

29.9.3.2 by a committee of the Directors appointed for the purpose under the Constitution.

30 Board of Directors – remuneration and terms of office

30.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors.

30.2 The Trust shall establish a committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

31 Registers

The Trust shall have:

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

31.2 a register of members of the Council of Governors;

31.3 a register of interests of Governors;

31.4 a register of Directors; and

31.5 a register of interests of the Directors.

32 NOT USED

33 Registers – inspection and copies

33.1 The Trust shall make the registers specified in paragraph 31 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.

33.2 NOT USED.

33.3 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the Trust, if the member so requests.

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

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

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

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

34 Documents available for public inspection

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

34.1.1 a copy of the current Constitution;

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

34.1.3 a copy of the latest annual report.

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

- 34.2.1** a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act;
- 34.2.2** a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
- 34.2.3** a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act;
- 34.2.4** a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
- 34.2.5** a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
- 34.2.6** a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (the Regulator's decision), 65KB (Secretary of State's response to the Regulator's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
- 34.2.7** a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
- 34.2.8** a copy of any final report published under section 65I (administrator's final report) of the 2006 Act;
- 34.2.9** a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; or
- 34.2.10** a copy of any information published under section 65M

(replacement of trust special administrator) of the 2006 Act.

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

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

35 Auditor

35.1 The Trust shall have an auditor.

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

36 Audit committee

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

37 Accounts

37.1 The Trust shall keep proper accounts and proper records in relation to the accounts.

37.2 The Regulator may with the approval of the Secretary of State give direction to the Trust as to the form and content of its accounts.

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

37.4 The Trust shall prepare in respect of each financial year annual accounts in such form as the Regulator may with the approval of the Secretary of State direct.

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

38 Annual report, forward plans and non-NHS work

- 38.1** The Trust shall prepare an Annual Report and send it to NHSI.
- 38.2** The Trust shall give information as to its forward planning in respect of each financial year to NHSI.
- 38.3** The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 38.4** In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 38.5** Each forward plan must include information about:
- 38.5.1** the activities other than the provision of goods and services for the purposes of the health service in England that the Trust proposes to carry on; and
 - 38.5.2** the income it expects to receive from doing so.
- 38.6** Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 38.5.1 the Council of Governors must:
- 38.6.1** determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the Trust of its principal purpose or the performance of its other functions; and
 - 38.6.2** notify the Directors of the Trust of its determination.
- 38.7** A Trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the Council of Governors of the Trust voting approve its implementation.

39 Presentation of the annual accounts and reports to the governors and members

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

39.1.1 the annual accounts;

39.1.2 any report of the auditor on them; and

39.1.3 the annual report.

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

39.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of paragraph 39.1 with the Annual Members' Meeting.

40 Instruments

40.1 The Trust shall have a seal.

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

41 Amendment of the Constitution

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

41.1.1 more than half of the members of the Council of Governors of the Trust voting approve the amendments; and

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

41.1.3 The Chair of the Trust, as the Chair of both the Council of Governors and the Board of Directors shall have the casting vote in the event of an equality of votes.

41.2 Amendments made under paragraph 41.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

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

41.3.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and

41.3.2 the Trust must give the members an opportunity to vote on whether they approve the amendment.

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

41.5 Amendments by the Trust of its Constitution are to be notified to the Regulator. For the avoidance of doubt, the Regulator's functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.

42 Mergers etc. and significant transactions

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

42.2 This constitution does not contain any descriptions of the term 'significant transaction' for the purposes of section 51A of the 2006 Act (Significant

Transactions) however Governors are required to approve significant transactions.

ANNEX 1 – THE PUBLIC CONSTITUENCIES

Paragraph 7

Constituency	Area	Minimum number of members
One single Public Constituency, divided into the following areas of representation:		
Halton	the electoral area covered by Halton Borough Council	8
Warrington	the electoral area covered by Warrington Borough Council	8
Rest of England	all electoral areas in England except those stated above.	8

ANNEX 2 – THE STAFF CONSTITUENCY

Paragraph 8

Classes of the Staff Constituency	Minimum number of members
Registered nurses and midwives	2
Allied health professionals / other registered healthcare professionals	1
Clinical support staff, including Assistant Practitioners / Healthcare Assistants	1
Registered medical practitioners or Community Dental Services Staff	1
Non-clinical support staff including managerial and administrative staff	1

ANNEX 3 – FREQUENCY OF ELECTIONS

Paragraph 11

1. Governors may serve a maximum of three terms of two or three years initially and thereafter all terms will be three years in length.
2. Elections for the Council of Governors shall be rotational as follows:

Year 1	All seats contested:
	a. 50% appointed for a term of two years
	b. 50% appointed for a term of three years
Year 2	No election
Year 3	Seats for the 50% appointed for two years contested and appointed for three years
Year 4	Seats for the 50% appointed for three years contested and appointed for three years
Year 5	No election
Year 6	Seats appointed in Year 3 for three years contested and appointed for three years
Year 7	Seats appointed in Year 4 for three years contested and appointed for three years

ANNEX 4 – COMPOSITION OF COUNCIL OF GOVERNORS

Paragraph 11

1. The composition of the Council of Governors shall be as follows:

Appointed and Partnership Governors	
Partnership organisation	Number of Appointed Governors
Two representatives from statutory borough-based partner organisations (such as councils, Healthwatch or other statutory organisations). This will be reviewed and confirmed on an annual basis by the Chair and Lead Governor.	2
Voluntary Services Representative	1
Higher Education Institution	1
Total	4

Staff Governors	
Class	Number of Staff Governors
Registered nurses and midwives	2
Allied health professionals / other registered healthcare professionals	1
Clinical support staff, including Assistant Practitioners / Healthcare Assistants	1
Registered medical practitioners or Community Dental Services Staff	1
Non-clinical support staff including managerial and administrative staff	1
Total	6

Public Governors	
ONE single public constituency divided into the following Areas of Representation *	Number of Public Governors
Halton	4
Warrington	4
Rest of England	6
Total	14

*elections will take place via single transferrable vote, such that where areas of representation do not fill the post, the candidate with the next highest number of votes not otherwise elected to their area of representation will be returned as the elected governor.

2. The aggregate number of Public Governors is to be more than half of the total membership of the Council of Governors.
3. The partnership organisations may be varied from time to time by the Trust, but for the avoidance of doubt such variation shall constitute an amendment to this Constitution and accordingly the provisions of Clause 41 of the Constitution shall apply.

**ANNEX 5 – BRIDGEWATER COMMUNITY HEALTHCARE NHS FOUNDATION
TRUST (COUNCIL OF GOVERNORS)¹² MODEL ELECTION RULES**

(Paragraph 12.2)

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¹ References in this Annex 5 to "Board of Governors" shall bear the same meaning as "Council of Governors" in the Constitution

² All references in this Annex 5 to "Corporation" shall bear the same meaning as "the Trust" in the Constitution.

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Part 1- Interpretation

- 1. Interpretation** – (1) In these rules, unless the context otherwise requires -
“corporation” means the public benefit corporation subject to this constitution;
“election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the Council of governors;
“the regulator” means the Independent Regulator for NHS foundation trusts; and
“the 2006 Act” means the NHS Act 2006
- (2) Other expressions used in these rules and in Schedule 7 to the NHS Act 2006 have the same meaning in these rules as in that Schedule.

Part 2 – Timetable for election

2. Timetable - The proceedings at an election shall be conducted in accordance with the following timetable.

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

3. Computation of time - (1) In computing any period of time for the purposes of the timetable -

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

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

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

Part 3 – Returning officer

4. Returning officer – (1) Subject to rule 64, the returning officer for an election is to be appointed by the corporation.

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

5. Staff – Subject to rule 64, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure - The corporation is to pay the returning officer –

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

7. Duty of co-operation – The corporation is to co-operate with the returning officer in the exercise of their functions under these rules.

Part 4 - Stages Common to Contested and Uncontested Elections

8. Notice of election – The returning officer is to publish a notice of the election stating –

- (a) the constituency, or class within a constituency, for which the election is being held,
- (b) the number of members of the board of governors to be elected from that constituency, or class within that constituency,
- (c) the details of any nomination committee that has been established by the corporation,
- (d) the address and times at which nomination papers may be obtained;
- (e) the address for return of nomination papers and the date and time by which they must be received by the returning officer,
- (f) the date and time by which any notice of withdrawal must be received by the returning officer
- (g) the contact details of the returning officer, and

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

9. Nomination of candidates – (1) Each candidate must nominate themselves on a single nomination paper.

(2) The returning officer-

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

10. Candidate's particulars – (1) The nomination paper must state the candidate's -

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

11. Declaration of interests – The nomination paper must state –

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

12. Declaration of eligibility – The nomination paper must include a declaration made by the candidate–

- (a) that he or she is not prevented from being a member of the board of governors by paragraph 8 of Schedule 1 of the 2003 Act or by any provision of the constitution; and,
- (b) for a member of the public or patient constituency, of the particulars

of their qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

13. Signature of candidate – The nomination paper must be signed and dated by the candidate, indicating that –

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

14. Decisions as to the validity of nomination – (1) Where a nomination paper is received by the returning officer in accordance with these rules, the candidate is deemed to stand for election unless and until the returning officer-

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

(2) The returning officer is entitled to decide that a nomination paper is invalid only on one of the following grounds -

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

rule 13.

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

(4) Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination paper, stating the reasons for their decision.

(5) The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate's nomination paper.

15. Publication of statement of candidates – (1) The returning officer is to prepare and publish a statement showing the candidates who are standing for election.

(2) The statement must show –

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

(b) the declared interests of each candidate

standing, as given in their nomination paper.

(3) The statement must list the candidates standing for election in alphabetical order by surname.

(4) The returning officer must send a copy of the statement of candidates and copies of the nomination papers to the corporation as soon as is practicable after publishing the statement.

16. Inspection of statement of nominated candidates and nomination papers

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

(2) If a person requests a copy or extract of the statements of candidates or their nomination papers, the corporation is to provide that person with the copy or extract free of charge.

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

18. Method of election – (1) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the board of governors, a poll is to be taken in accordance with Parts 5 and 6 of these rules.

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

(3) If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be board of governors, then –

- (a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and
- (b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by them in consultation with the corporation.

Part 5 – Contested elections

19. Poll to be taken by ballot – (1) The votes at the poll must be given by secret ballot.

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

20. The ballot paper – (1) The ballot of each voter is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.

(2) Every ballot paper must specify –

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the board of governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

(3) Each ballot paper must have a unique identifier.

(4) Each ballot paper must have features incorporated into it to prevent it from being reproduced.

21. The declaration of identity (public and patient constituencies) – (1) In respect of an election for a public or patient constituency a declaration of identity must be issued with each ballot paper.

(2) The declaration of identity is to include a declaration –

- (a) that the voter is the person to whom the ballot paper was addressed,
- (b) that the voter has not marked or returned any other voting paper in the election, and
- (c) for a member of the public or patient constituency, of the particulars

of that member's qualification to vote as a member of the constituency or class within a constituency for which the election is being held.

(3) The declaration of identity is to include space for –

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter's signature, and
- (d) the date that the declaration was made by the voter.

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

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

22. List of eligible voters – (1) The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 26 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

(2) The list is to include, for each member, a mailing address where their ballot paper is to be sent.

23. Notice of poll - The returning officer is to publish a notice of the poll stating–

- (a) the name of the corporation,
- (b) the constituency, or class within a constituency, for which the election is being held,
- (c) the number of members of the board of governors to be elected from that constituency, or class with that constituency,

- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, and
- (h) the contact details of the returning officer.

24. Issue of voting documents by returning officer – (1) As soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following documents to each member of the corporation named in the list of eligible voters–

- (a) a ballot paper and ballot paper envelope,
- (b) a declaration of identity (if required),
- (c) information about each candidate standing for election, pursuant to rule 59 of these rules, and
- (d) a covering envelope.

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

25. Ballot paper envelope and covering envelope – (1) The ballot paper envelope must have clear instructions to the voter printed on it, instructing the voter to seal the ballot paper inside the envelope once the ballot paper has been marked.

(2) The covering envelope is to have –

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

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

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

The poll

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

27. Voting by persons who require assistance – (1) The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

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

28. Spoilt ballot papers (1) – If a voter has dealt with their ballot paper in such a manner that it cannot be accepted as a ballot paper (referred to a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.

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

(3) The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she –

- (a) is satisfied as to the voter’s identity, and
- (b) has ensured that the declaration of identity, if required, has not been returned.

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

- (a) the name of the voter, and
- (b) the details of the unique identifier of the spoiled ballot paper (if that officer was able to obtain it), and
- (c) the details of the unique identifier of the replacement ballot paper.

29. Lost ballot papers – (1) Where a voter has not received their ballot paper by the fourth day before the close of the poll, that voter may apply to the returning officer for a replacement ballot paper.

(2) The returning officer may not issue a replacement ballot paper for a lost ballot paper unless they –

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

(3) After issuing a replacement ballot paper for a lost ballot paper, the returning officer shall enter in a list ("the list of lost ballot papers") –

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper.

30. Issue of replacement ballot paper– (1) If a person applies for a replacement ballot paper under rule 28 or 29 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue a replacement ballot paper unless, in addition to the requirements imposed rule 28(3) or 29(2), they are also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.

(2) After issuing a replacement ballot paper under this rule, the returning officer shall enter in a list ("the list of tendered ballot papers") –

- (a) the name of the voter, and
- (b) the details of the unique identifier of the replacement ballot paper issued under this rule.

31. Declaration of identity for replacement ballot papers (public and patient constituencies) – (1) In respect of an election for a public or patient constituency a declaration of identity must be issued with each replacement ballot paper.

(2) The declaration of identity is to include a declaration –

- (a) that the voter has not voted in the election with any ballot paper other than the ballot paper being returned with the declaration, and
- (b) of the particulars of that member's qualification to vote as a member of the public or patient constituency, or class within a constituency, for which the election is being held.

(3) The declaration of identity is to include space for –

- (a) the name of the voter,
- (b) the address of the voter,
- (c) the voter's signature, and
- (d) the date that the declaration was made by the voter.

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

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

Procedure for receipt of envelopes

32. Receipt of voting documents – (1) Where the returning officer receives a –

- (a) covering envelope, or
- (b) any other envelope containing a declaration of identity if required, a ballot paper envelope, or a ballot paper,

before the close of the poll, that officer is to open it as soon as is practicable; and rules 33 and 34 are to apply.

(2) The returning officer may open any ballot paper envelope for the purposes of rules 33 and 34, but must make arrangements to ensure that no person obtains or communicates information as to –

- (a) the candidate for whom a voter has voted, or
- (b) the unique identifier on a ballot paper.

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

33. Validity of ballot paper – (1) A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly completed, signed, and dated.

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

- (a) put the declaration of identity if required in a separate packet, and
- (b) put the ballot paper aside for counting after the close of the poll.

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

- (a) mark the ballot paper “disqualified”,
- (b) if there is a declaration of identity accompanying the ballot paper, mark it as “disqualified” and attach it the ballot paper,
- (c) record the unique identifier on the ballot paper in a list (the “list of disqualified documents”); and

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

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

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

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

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

- (a) the disqualified documents, together with the list of disqualified documents inside it,
- (b) the declarations of identity if required,
- (c) the list of spoiled ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

Part 6 - Counting the votes

36. Interpretation of Part 6 – In Part 6 of these rules-

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

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

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

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

“non-transferable vote” means a ballot paper –

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule stv44(4) below,

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

- (a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference,
- (b) “next available preference” means a preference which is the second, or as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored); and
- (c) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, and a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on,

“quota” means the number calculated in accordance with rule stv41 below,

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

“stage of the count” means –

- (a) the determination of the first preference vote of each candidate,
- (b) the transfer of a surplus of a candidate deemed to be elected, or
- (c) the exclusion of one or more candidates at any given time,

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

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

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule stv42 below.

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

38. The count – (1) The returning officer is to –

- (a) count and record the number of ballot papers that have been returned, and
- (b) count the votes according to the provisions in this Part of the rules.

(2) The returning officer, while counting and recording the number of ballot papers and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper.

(3) The returning officer is to proceed continuously with counting the votes as far as is practicable.

39. Rejected ballot papers – (1) Any ballot paper –

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

identified except the unique identifier, or

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

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

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

(3) The returning officer is to draw up a statement showing the number of ballot papers rejected by them or her under each of the subparagraphs (a) to (d) of paragraph (1).

40. First stage – (1) The returning officer is to sort the ballot papers into parcels according to the candidates for whom the first preference votes are given.

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

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

41. The quota – (1) The returning officer is to divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

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

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule stv44 has been complied with.

42. Transfer of votes – (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped –

- (a) according to next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(2) The returning officer is to count the number of ballot papers in each parcel referred to in paragraph (1) above.

(3) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) to the candidate for whom the next available preference is given on those papers.

(4) The vote on each ballot paper transferred under paragraph (3) above shall be at a value (“the transfer value”) which –

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

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

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-

transferable votes.

(6) The returning officer is, in accordance with this rule and rule stv43 below, to transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) to the candidate for whom the next available preference is given on those papers.

(7) The vote on each ballot paper transferred under paragraph (6) shall be at –

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

whichever is the less.

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

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

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

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

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

43. Supplementary provisions on transfer – (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if –

- (a) The surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes shall be transferred first, and
- (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot, and the transferable papers of the candidate on whom the lot falls shall be transferred first.

(2) The returning officer shall, on each transfer of transferable papers under rule 42 above –

- (a) record the total value of the votes transferred to each candidate,
- (b) add that value to the previous total of votes recorded for each candidate and record the new total,
- (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and
- (d) compare—
 - (i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

(3) All ballot papers transferred under rule stv42 or stv44 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule stv42 or stv44 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

44. Exclusion of candidates – (1) If—

- (a) all transferable papers which under the provisions of rule stv42 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule stv45 below, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

(2) The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (1) above into two sub-parcels so that they are grouped as—

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

(3) The returning officer shall, in accordance with this rule and rule stv43 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

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

(5) If, subject to rule stv45 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

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

(7) The vote on each transferable paper transferred under paragraph (6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (1) above.

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

(9) After the returning officer has completed the transfer of the ballot papers in the sub-parcel of ballot papers with the highest transfer value, he or she shall proceed to transfer in the same way the sub-parcel of ballot papers with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (1) above.

(10) The returning officer shall after each stage of the count completed under this rule—

(a) record –

(i) the total value of votes, or

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

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

- (c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and
- (d) compare—
 - (i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule stv42 and rule stv43.

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

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

- (a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded, and
- (b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

45. Filling of last vacancies – (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

(2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon

be deemed to be elected.

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

46. Order of election of candidates – (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred or would have been transferred but for rule stv42(10) above.

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

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

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

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

Part 7 – Final proceedings in contested and uncontested elections

47. Declaration of result for contested elections – (1) In a contested election, when the result of the poll has been ascertained, the returning officer is to—

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

- (b) give notice of the name of each candidate who he or she has declared elected –
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 4(4) of the 2003 Act, to the chair of the NHS Trust, or
 - (ii) in any other case, to the chair of the corporation, and
- (c) give public notice of the name of each candidate who they have declared elected.

(2) The returning officer is to make –

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule stv39(1),

available on request.

48. Declaration of result for uncontested elections – In an uncontested election, the returning officer is to as soon as is practicable after final day for the delivery of notices of withdrawals by candidates from the election –

- (a) declare the candidate or candidates remaining validly nominated to be elected,
- (b) give notice of the name of each candidate who they have declared elected to the chair of the corporation, and
- (c) give public notice of the name of each candidate who they have

declared elected.

Part 8 – Disposal of documents

49. Sealing up of documents relating to the poll – (1) On completion of the counting at a contested election, the returning officer is to seal up the following documents in separate packets –

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

(2) The returning officer must not open the sealed packets of –

- (a) the disqualified documents, with the list of disqualified documents inside it,
- (b) the declarations of identity,
- (c) the list of spoilt ballot papers,
- (d) the list of lost ballot papers,
- (e) the list of eligible voters, and
- (f) the list of tendered ballot papers.

(3) The returning officer must endorse on each packet a description of –

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

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

51. Forwarding of documents received after close of the poll – Where –

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

52. Retention and public inspection of documents – (1) The corporation is to retain the documents relating to an election that are forwarded to the chair by the returning officer under these rules for one year, and then, unless otherwise directed by the regulator, cause them to be destroyed.

(2) With the exception of the documents listed in rule 53(1), the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

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

53. Application for inspection of certain documents relating to an election –

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

- (a) any rejected ballot papers, including ballot papers rejected in part,
- (b) any disqualified documents, or the list of disqualified documents,
- (c) any counted ballot papers,
- (d) any declarations of identity, or

(e) the list of eligible voters, by any person without the consent of the Regulator.

(2) A person may apply to the Regulator to inspect any of the documents listed in (1), and the Regulator may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

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

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

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

(4) On an application to inspect any of the documents listed in paragraph (1), –

- (a) in giving its consent, the regulator, and
- (b) and making the documents available for inspection, the corporation,

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

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

Part 9 – Death of a candidate during a contested election

54. Countermand or abandonment of poll on death of candidate – (1) If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to –

- (a) publish a notice stating that the candidate has died, and
- (b) proceed with the counting of the votes as if that candidate had been excluded from the count so that –
 - (i) ballot papers which only have a first preference recorded for the candidate that has died, and no preferences for any other candidates, are not to be counted, and
 - (ii) ballot papers which have preferences recorded for other candidates are to be counted according to the consecutive order of those preferences, passing over preferences marked for the candidate who has died.

(2) The ballot papers which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot papers pursuant to rule 49(1)(a).

Part 10 – Election expenses and publicity

Election expenses

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

56. Expenses and payments by candidates - A candidate may not incur any expenses or make a payment (of whatever nature) for the purposes of an election, other than expenses or payments that relate to –

- (a) personal expenses,
- (b) travelling expenses, and expenses incurred while living away from home, and
- (c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of [£100].

57. Election expenses incurred by other persons – (1) No person may -

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

(2) Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 58 and 59.

Publicity

58. Publicity about election by the corporation – (1) The corporation may –

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

as it considers necessary.

(2) Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 59, must be –

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

(3) Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend,

and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

59. Information about candidates for inclusion with voting documents - (1)

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

(2) The information must consist of –

(a) a statement submitted by the candidate of no more than [250] words, [and]

[(b) a photograph of the candidate.]

60. Meaning of “for the purposes of an election” - (1) In this Part, the phrase “for the purposes of an election” means with a view to, or otherwise in connection with, promoting or procuring a candidate’s election, including the prejudicing of another candidate’s electoral prospects; and the phrase “for the purposes of a candidate’s election” is to be construed accordingly.

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

Part 11 – Questioning elections and the consequence of irregularities

61. Application to question an election – (1) An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to the regulator.

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

(3) An application may only be made to the Regulator by -

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

right to vote, or

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

(4) The application must –

- (a) describe the alleged breach of the rules or electoral irregularity, and
- (b) be in such a form as the Regulator may require.

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

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

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

b. The determination by the person or persons nominated in accordance with Rule 61(7) shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.

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

Part 12 – Miscellaneous

62. Secrecy – (1) The following persons –

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

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

- (i) the name of any member of the corporation who has or has not been given a ballot paper or who has or has not voted,
- (ii) the unique identifier on any ballot paper,
- (iii) the candidate(s) for whom any member has voted.

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

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

63. Prohibition of disclosure of vote – No person who has voted at an election shall, in any legal or other proceedings to question the election, be required to state for whom he or she has voted.

64. Disqualification – A person may not be appointed as a returning officer, or as staff of the returning officer pursuant to these rules, if that person is –

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

65. Delay in postal service through industrial action or unforeseen event – If industrial action, or some other unforeseen event, results in a delay in –

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

the returning officer may extend the time between the publication of the notice of the

poll and the close of poll, with the agreement of the regulator.

ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

(Paragraph 14.3)

1 Remuneration

- 1.1 Governors are not to receive remuneration, provided that this shall not prevent the remuneration of Governors by their employer.

2 Vacancies

- 2.1 In the event of an Elected Governor's seat falling vacant for any reason before the end of the term of office it shall be filled by the second place candidate in the last held election for that seat provided that the second place candidate achieved at least five percent of the vote in the last held election for that seat. If that individual declines it shall be filled by the third place candidate provided that the third place candidate achieved at least five percent of the vote in the last held election for that seat (the "Reserve Governor"). If the vacancy is filled in this way the Reserve Governor shall be eligible to serve three terms (subject to re-election) including the partial term served.
- 2.2 In the event that a Reserve Governor is not available under paragraph 3.1 above, a by-election shall be held in accordance with the Model Rules for Election unless an election is due within 6 months in which case the seat shall stand vacant until the following scheduled election.
- 2.3 In the event of an Appointed Governor's seat falling vacant for any reason before the end of the term of office, the Trust will request that the relevant Other Partnership Organisation appoint a "Replacement Governor" within 30 days. Appointed Governors shall be replaced in accordance with the processes agreed.
- 2.4 The validity of any act of the Council of Governors is not affected by any vacancy among the Governors or by any defect in the appointment of any Governor.

3 Meetings

- 3.1 The Council of Governors is to meet at least four times per year, including an annual meeting no later than 30 September in each year apart from the first year, when the Council of Governors is to receive and consider the annual accounts and any report of the Auditor on them and the Board of Directors is to present to the Council of Governors the Annual Report.
- 3.2 The Secretary shall call meetings in accordance with paragraph 3.1 above.

4 Working Groups

- 4.1 The Council of Governors may appoint Working Groups consisting wholly or partly of its members to assist it in carrying out its functions.
- 4.2 The Council of Governors may appoint members to serve on joint working groups with the Board of Directors.
- 4.3 These working groups may call upon outside advisers to help them in their tasks, provided that the financial and other implications of seeking outside advisers have been discussed and agreed by the Board of Directors. Any conflict arising between the Council of Governors and the Board of Directors under this paragraph will be determined in accordance with the Dispute Resolution Procedure.

5 Removal of Governor from office

- 5.1 A person holding office as a Governor shall immediately cease to do so if:
 - 5.1.1 they resign by notice in writing to the Secretary;
 - 5.1.2 they fail to attend three consecutive Council of Governor or members meetings, unless the other Governors are satisfied that:
 - 5.1.2.1 the absences were due to reasonable causes; and
 - 5.1.2.2 they will be able to start attending meetings of the Council of Governors and members meetings again within such a period as the other Governors consider reasonable;
 - 5.1.3 in the case of an elected Governor, they cease to be a member of the class of the constituency by which they were elected;
 - 5.1.4 in the case of an appointed Governor, the appointing organisation terminates the appointment;
 - 5.1.5 they have refused without reasonable cause to undertake any training which the Council of Governors requires all Governors to undertake;
 - 5.1.6 they have failed to agree, or having agreed, fail to abide by the code of conduct for Governors and the Nolan principles and to deliver to the Secretary a statement in the form required confirming acceptance of the code of conduct for Governors;
 - 5.1.7 they are removed from the Council of Governors under clause 5.2.
- 5.2 A Governor may be removed from the Council of Governors by a resolution approved by not less than three-quarters of the remaining Governors present and voting on the grounds that:
 - 5.2.1 they have committed a serious breach of the code of conduct; or
 - 5.2.2 they have acted in a manner detrimental to the interests of the Trust;
or

- 5.2.3 they have expressed opinions which are incompatible with the values of the Trust; and
- 5.2.4 the Council of Governors consider that it is not in the best interests of the Trust for them to continue as a Governor; or
- 5.2.5 they have not been able to appropriately discharge their responsibilities and duties by reason of illness or injury following a period of monitoring and support by the Trust Secretary.

6 Role of the Council of Governors

- 6.1 In addition to the roles and responsibilities of the Council of Governors as set out in this Constitution, the Governors also have roles and responsibilities to:
 - 6.1.1 support the Board of Directors in setting the longer-term vision for the Trust, to influence proposals to make changes to services and to act in a way that is consistent with NHS and the Trust's values and this Constitution;
 - 6.1.2 engage in dialogue with and provide advice to the Board of Directors with regard to the Trust's future vision and strategy and to act as a source of ideas about how the Trust can provide its services in ways that meet the needs of the community it serves;
 - 6.1.3 review annually the extent to which the Trust is meeting its objective of delivering high quality services;
 - 6.1.4 work with the Board of Directors on such other matters for the benefit of the Trust as may be agreed between them;
 - 6.1.5 exercise other functions at the request of the Board of Directors.

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

(Paragraph 16)

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INTERPRETATION

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

2. Any expression to which a meaning is given in the National Health Service Act 2006 and other Acts relating to the National Health Service or in the Financial Regulations made under the Act or regulations made under it shall have the same meaning for the purposes of these Standing Orders and in addition;

Council of Governors and (unless the context requires otherwise) "Council"	The Council of Governors of the Trust as constituted by the Constitution;
Board of Directors	Chair, Executive and Non-Executive Directors of the Trust collectively as a body;
Chair of the Council or Chair of the Trust	Person appointed by the Council of Governors to lead the Board of Directors and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chair of the Trust" shall be deemed to include the Deputy Chair of the Trust if the Chair is absent from the meeting or otherwise unavailable;
Chief Executive	Chief Executive Officer of the Trust;
Committee	A Committee of the Council of Governors;
Constitution	The Constitution of the Trust;
Committee members	Chair of the committee and the Governors (and other people by invitation) formally appointed by the Council of Governors to sit on or to chair specific committees;
Executive Director	A member of the Board of Directors holding an executive office of the Trust;
Member of the Council	A Governor of the Trust. (Member of the Council in relation to the Council of Governors does not include the Chair);
Non-Executive Director	A member of the Board of Directors who does not hold an executive office of the Trust;

SOs	Refers to the Standing Orders of the Council of Governors;
Secretary	A person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Council and the Chair and monitor the Trust's compliance with the Regulatory Framework and these Standing Orders;
Deputy Chair	The Non-Executive Director appointed from amongst the Non-Executive Directors as Deputy Chair by the Board of Governors in accordance with the Constitution to take on the Chair's duties if the Chair is absent for any reason.

1. INTRODUCTION

1.1 Regulatory Framework

The Trust is a statutory body which became a public benefit corporation on 30 October 2014 following its approval as an NHS Foundation Trust by Monitor, now NHS Improvement, pursuant to the National Health Service Act 2006.

NHS Foundation Trusts are governed by the National Health Service Act 2006, by their constitutions, and by the terms of their licence granted by Monitor (the Regulatory Framework). The Regulatory Framework requires the Council of Governors of the Trust to adopt Standing Orders for the regulation of its proceedings and business. All business of the Council of Governors will be conducted in the name of the Trust.

2. THE COUNCIL OF GOVERNORS

2.1 Composition of the Council

The composition of the Council of Governors is set out in the Constitution.

2.2 Role of the Chair

The Chair is the Chair of the Trust. The Chair is not a member of the Council of Governors. Under the Regulatory Framework, the Chair presides at meetings of the Council of Governors and has a casting vote.

Where the Chair ceases to hold office, or where they has been unable to perform their duties as Chair owing to illness or any other cause, the Deputy Chair (a Non-Executive Director appointed by the Council of Governors) shall act as Chair until a new Chair is appointed or the existing Chair resumes their duties, as the case may be. References to the Chair in these Standing Orders shall, so long as there is no

Chair able to perform their duties, be taken to include references to the Deputy Chair.

3. MEETINGS OF THE COUNCIL

Calling meetings

3.1 Ordinary meetings of the Council of Governors shall be held at such times and places as the Chair may determine. At least 4 meetings will be held each year. One such meeting shall be the Annual General Meeting. Meetings will normally be held in public. However, the Council may resolve to exclude the public where it wishes to discuss particular issues in private session.

3.2 The Chair may call meetings of the Council of Governors. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Governors including at least two elected and two appointed Governors, has been presented to them, or if, without so refusing, the Chair does not call a meeting within 7 days after such requisition has been presented to them, at the Trust's Headquarters, such one third or more Governors may forthwith call a meeting of the Council.

3.3 Notice of meetings

3.3.1 Before each meeting of the Council of Governors, a notice of the meeting signed by the Chair or by an officer of the Trust authorised by the Chair to sign on their behalf shall be delivered to every member of the Council or sent by post to the usual place of residence of such Governor, no less than five clear days in advance of the meeting.

3.3.2 Notice of business to be transacted

Before each meeting of the Council of Governors, an agenda setting out the business of the meeting, signed by the Chair or by an officer of the Trust authorised by the Chair to sign on their behalf shall be delivered to every member of the Council of Governors, or sent by post to the usual place of residence of such Governor specifying the business proposed to be transacted at it so as to be available to the Governor at least five clear days before the meeting, including weekends. Supporting papers, whenever possible, shall accompany the agenda, but will be dispatched no later than three clear days before the meeting save in an emergency.

3.4 Lack of service of the notice on any Governor shall not affect the validity of a meeting.

3.5 In the case of a meeting called by the Governors in default of the Chair, the notice shall be signed by those respective Governors and no business shall be transacted at the meeting other than that specified in the notice.

3.6 A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of post or otherwise on the day following electronic or facsimile transmission.

3.7 Setting the agenda

The Council of Governors may determine that certain matters shall appear on every agenda for a meeting of the Council of Governors and shall be addressed prior to any other business being conducted (such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an appendix to the Standing Orders).

- 3.8 A Governor desiring a matter to be included on an agenda shall make their request in writing to the Chair at least 15 clear days including weekends before the respective meeting. Requests made less than 15 days before a meeting may be included on the agenda at the discretion of the Chair.

3.9 Attendance and questions from the public

The public shall be welcome at all meetings of the Council of Governors unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds. The Chair may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

Up to 15 minutes will be set aside at the end of each ordinary meeting to enable members of the public or other interested parties to ask questions of the Council. Questions on any matter that has been discussed at the meeting can be raised at this point. Questions on general matters related to the business of the Trust should be sent in writing to the Chair at least 5 days prior to the meeting.

- 3.10 Nothing in these standing orders shall require the Trust to allow members of the public and representatives of the press to record proceedings in any manner whatsoever, other than in writing, or to make any oral report of proceedings as they take place, without the prior agreement of the Chair.

3.11 Chair of meeting

At any meeting of the Council, the Chair of the Council, if present, shall preside. If the Chair is absent from the meeting or absent temporarily on the grounds of a declared conflict of interest, the Deputy Chair of the Trust, if there is one, and they are present, shall preside. If the Chair and Deputy Chair are absent, such Non-Executive Director as the Non-Executive Directors present shall choose, shall preside. Where the Chair, Deputy Chair, and other Non-Executive Directors are all absent or have a conflict of interest, a chair appointed from amongst the Council of Governors shall preside at the meeting and shall have a casting vote.

3.12 Notices of motion

A Governor of the Trust desiring to move or amend a motion shall send a written notice thereof signed by at least one other Governor at least 15 clear days before the meeting to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible. This paragraph shall not prevent

any motion being moved during the meeting without notice, on any business mentioned on the agenda.

Emergency Motions: Subject to the agreement of the Chair, a Governor 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 Council at the commencement of the business of the meeting as an additional item included in the agenda. The Chair's decision to include or exclude the item shall be final.

3.13 Motions: Procedure at and during a meeting

i) Who may propose

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

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 reception of a report;
- consideration of any item of business before the Council;
- the accuracy of minutes;
- that the Council proceed to next business;
- that the Council adjourn; or
- that the question be now put.

iii) Motion once under debate

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

- An amendment to the motion;
- The adjournment of the discussion or the meeting;
- That the meeting proceed to the next business; (*)
- the motion be now put.; (*)
- that a Governor be not further heard; or
- a motion resolving to exclude the public, including the press.

* In the case of sub-paragraphs denoted by (*) above, to ensure objectivity motions may only be put by a Governor who has not previously taken part in the debate.

iv) 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 Council. The Chair's decision on this will be final.

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.

v) **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.

vi) **Time limits**

The mover of a motion shall have a maximum of five minutes to propose the motion and three minutes to reply. Once a proposition has been proposed, no Governor shall speak more than once or for more than three minutes.

3.14 **Withdrawal of motion or amendments**

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

3.15 **Motion to rescind a resolution**

Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar months shall bear the signature of the Governor who gives it and also the signature of 4 other Governors. When any such motion has been disposed of by the Council, it shall not be competent for any Governor other than the Chair to propose a motion to the same effect within 6 months, however the Chair may do so if they consider it appropriate.

3.16 If a Governor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Governor be not heard further. If seconded, the motion will be

voted on without discussion. If the Governor continues to behave improperly after such a motion is carried, the Chair may move that either the Governor leaves the meeting room or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

3.17 Chair's ruling

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

3.18 Voting

Every question at a meeting shall be determined by a majority of the votes of the Chair of the meeting and the Governors present and voting on the question and, in the case of any equality of votes, the Chair or person presiding shall have a second or casting vote.

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

3.20 If at least one third of the Governors present so request, the voting (other than by secret paper ballot) on any question may be recorded to show how each Governor present voted or abstained.

3.21 If a Governor so requests their vote shall be recorded by name upon any vote (other than by secret paper ballot).

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

3.23 Minutes

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

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

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

3.26 Waiver of standing orders

These standing orders shall not be waived except:

- 3.26.1 where urgent action is required and the Chair considers it to be in the interests of the Trust to waive one or more of the Standing Orders, they may do so, subject to such action being reported to and ratified by the next meeting of the Council;
- 3.26.2 upon a notice of motion under Standing Order 3.12
- 3.27 A decision to waive Standing Orders shall be recorded in the minutes of the next meeting of the Council of Governors.
- 3.28 All waivers of Standing Orders shall be reported to the Audit Committee. The Committee shall review every decision to waive the Standing Orders.
- 3.29 **Variation and amendment of standing orders**
 - 3.29.1 These Standing Orders shall only be amended in accordance with paragraph 41 of the Constitution.
- 3.30 **Record of attendance**

The names of the Chair and Governors, and any invited attendees present at the meeting shall be recorded in the minutes.
- 3.31 **Quorum**

No business shall be transacted at a meeting of the Council of Governors unless 50% of the Council are present and where Public Governors outnumber Staff and Appointed Governors. If insufficient members to constitute a quorum are in attendance within 30 minutes of the time fixed for a meeting, the meeting will stand adjourned for 7 days and at the reconvened meeting those present will constitute a quorum.
- 3.32 If a Governor has been disqualified from participating in the discussion on any matter and/or from voting on any resolution because of the declaration of a conflict of interest they shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

4. DELEGATION OF FUNCTIONS AND STATUS OF STANDING ORDERS

4.1 Delegation of power to committees

The Council may not delegate any of its functions or powers to any sub-committees or committees of the Council.

4.2 Non-Compliance with Standing Orders

If for any reason these Standing Orders are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next formal meeting of the Council for action or ratification. All members of the Council have a duty to disclose any non-compliance with these Standing Orders to the Secretary as soon as possible.

5. WORKING GROUPS AND COMMITTEES

5.1 Appointment of Working Groups

The Council of Governors may appoint working groups of the Council of Governors consisting wholly or partly of members of the Trust (whether or not they include Governors of the Trust) or wholly of persons who are not members of the Trust (whether or not they include Governors of the Trust). The Council of Governors may not delegate any of its powers to a working group but working groups may act in an advisory capacity to assist the Council of Governors in carrying out its functions.

5.2 Nominations Committee and other Committees as the Regulator may require

- 5.2.1 Subject to the Constitution and guidance as may be given by the Regulator, the Council shall appoint a Nominations Committee and such other committees as the Regulator may require.
- 5.2.2 The Nominations Committee shall regularly review the structure, size, and composition of the Board of Directors and make recommendations for changes where appropriate.
- 5.2.3 As part of the process for appointments, the Nominations Committee will be responsible for the identification and nomination of Non-Executive Directors.
- 5.2.4 The Chair of the Trust or (if the Nominations Committee is considering the appointment of the Chair) the Deputy Chair of the Trust or another Non-Executive Director will chair the Nominations Committee. Other members of the Nominations Committee shall include three public Governors, one staff Governor and one appointed Governor.
- 5.2.5 The Nominations Committee will operate in accordance with guidance set out in the NHS Foundation Trust Code of Governance issued by Monitor, now part of NHS Improvement, or as shall from time to time be further issued by the Regulator.
- 5.2.6 The Nominations Committee shall work with the Board of Directors to prepare a specification for any vacant position as Non-Executive Director.

5.2.7 The Nominations Committee shall undertake appropriate training to fulfil their role.

5.3 Confidentiality

A member of a working group or a committee shall not disclose a matter dealt with by, or brought before, the working group or the committee without its permission until the working group or the committee shall have reported to the Council or shall otherwise have concluded on that matter.

5.4 A Governor of the Trust or a member of a working group or a committee shall not disclose any matter reported to the Council or otherwise dealt with by the working group or the committee, notwithstanding that the matter has been reported or action has been concluded, if the Council or the working group or the committee shall resolve that it is confidential.

5.5 A Governor of the Trust or a member of a working group or a committee shall not reveal or disclose the contents of papers marked 'In Confidence' or minutes headed 'Items Taken in 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 meeting which may take place on such reports or papers.

6. DECLARATION OF INTERESTS AND REGISTER OF INTERESTS

6.1 The Regulatory Framework requires Council members to declare interests which are relevant and material to the Council. Interests should be declared on appointment and updated to the Secretary as circumstances change, or as directed by the Regulator, and at least annually.

6.2 Interests which should be regarded as 'relevant and material' are set out in paragraph 17 of the Trust's Constitution.

6.3 At the time Council members' interests are declared, they should be recorded in the Council's minutes. Any changes notified to the Secretary in between meetings should be declared at the next Council meeting following the change occurring.

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

6.5 During the course of a meeting, if a conflict of interest is established, the member of the Council concerned should withdraw from the meeting and play no part in the relevant discussion or decision.

6.6 There is no requirement for the interests of Council members' spouses or partners to be declared. However, if the Council members' spouses or partners, if living together, have any pecuniary interest, direct or indirect, in

contracts or proposed contracts with the Trust, this is regarded as relevant and should be disclosed.

6.7 If Council members have any doubt about the relevance of an interest this should be discussed with the Chair (who must consult the Secretary) or the Secretary.

6.8 Register of Interests

The Secretary shall maintain a register of Governors interests. This will include details of all directorships and other relevant and material interests which have been declared by Council members as defined in Standing Order 6.2.

6.9 The register will be subject to regular review by the Secretary at each meeting or as directed by the Regulator. The register will be updated as and when members declare an interest/revise a declaration. Any such changes made will be declared and noted at the next meeting of the Council of Governors.

6.10 The register will be available to the public and the Chair will take reasonable steps to bring the existence of the register to the attention of the local population and to publicise arrangements for viewing it.

6.11 In establishing, maintaining, updating and publicising the register, the Trust will comply with all guidance issued from time to time by the Regulator.

7. DISPUTE RESOLUTION PROCEDURES

Provisions to establish procedures for the resolution of disputes are set out in Annex 9 of the Trust's Constitution.

8. PROCESS FOR THE APPOINTMENT OF NON-EXECUTIVE DIRECTORS

8.1 When a vacancy arises or is scheduled to arise within 6 months, a Nominations Committee shall be convened with clear terms of reference to advise the Council of Governors on the appointment of Non-Executive Directors. The Nominations Committee shall work with the Board of Directors to prepare a specification for Non-Executive Director.

9. PROCESS FOR THE APPOINTMENT OF THE CHAIR

9.1 Subject to the provisions within the Constitution in relation to the appointment and removal of the Chair, the Chair shall be appointed in accordance with the process of open competition.

9.2 When a vacancy arises or is scheduled to arise within 6 months, a Nominations Committee shall be convened with clear terms of reference to advise the Council of Governors on the appointment of the Chair. The Nominations Committee shall work with the Board of Directors to prepare a specification for the position of Chair.

10. PROCESS FOR THE APPOINTMENT OF THE AUDITOR

- 10.1 The Council of Governors shall create a duly authorised committee which shall be composed of two public Governors, a staff Governor and an appointed Governor.
- 10.2 The committee will consult the Chair of the Audit Committee, Non- Executive Directors and the Chief Executive regarding the necessary skills required.
- 10.3 The committee shall advertise in the national media to seek tenders from organisations they consider appropriate against a specification agreed by the Council of Governors to be appropriate to the task.
- 10.4 The committee shall then shortlist appropriate firms to be considered.
- 10.5 The committee shall then consult the Chair of the Audit Committee, Non- Executive Directors and Chief Executive on the shortlist.
- 10.6 The committee shall then interview representatives from each firm.
- 10.7 The committee shall then consider those firms and recommend one to the full Council of Governors.
- 10.8 The Council of Governors shall formally convey their decision to the successful firm's representatives and to the Chair of the Audit Committee and the Chief Executive.

11. STANDARDS OF BUSINESS CONDUCT

- 11.1 Governors should comply with the Trust's values, the Trust's Code of Conduct, the Trust's policy on Standards of Business Conduct and the requirements of the Regulatory Framework and any binding guidance issued by the Regulator.
- 11.2 **Canvassing of and recommendations by, members of the Council in relation to appointments**

Canvassing of Directors or Governors of the Trust or of any committee of the Trust directly or indirectly for any appointment with the Trust shall disqualify the candidate for such appointment. This clause of the Standing Orders shall be brought to the attention of candidates.

- 11.3 A member of the Council shall not solicit for any person any appointment with the Trust or recommend any person for such appointment. This clause of the Standing Orders shall not preclude a member of the Council from giving written testimonial of a candidate's ability, experience or character for submission to the Trust.
- 11.4 Informal discussions outside appointments panels or committees, whether solicited or unsolicited should be declared to the panel or the committee.

12. MISCELLANEOUS

12.1 Standing Orders to be given to members of the Council

It is the duty of the Secretary to ensure that existing and new members of the Council are notified and understand their responsibilities within the Constitution and these Standing Orders.

12.2 Review of Standing Orders

These Standing Orders shall be reviewed at least every three years, and more often if there are changes in the Regulatory Framework.

**ANNEX 7– STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF
THE BOARD OF DIRECTORS**

Paragraph 28

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INTRODUCTION

Statutory Framework

Bridgewater Community Healthcare NHS Foundation Trust (the Trust) is a body corporate which became a public benefit corporation on 30 October 2014 following its approval as an NHS Foundation Trust by Monitor pursuant to the National Health Service Act 2006 (the 2006 Act).

The Trust Offices are at Europa Point, Europa Boulevard, Warrington, Cheshire, WA5 7TY.

NHS Foundation Trusts are governed by the National Health Service Act 2006 (the "2006 Act") and their constitutions (the Regulatory Framework).

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

As a body corporate the Trust has specific powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable.

Reservation and Delegation of Powers

Under the Standing Orders relating to the Arrangements for the Exercise of Functions (SO 4) the Board exercises its powers to make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee appointed by virtue of SO 5 or by an officer of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit.

1 INTERPRETATION

- 1.1 Save as permitted by law and subject to the Constitution, at any meeting the Chair of the Trust shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the Chief Executive or Secretary).
- 1.2 Any expression to which a meaning is given in the 2006 Act or in the Regulations or Orders made under the 2006 Act shall have the same meaning in this interpretation and where there is a conflict between the 2006 Act and another legislative provision the 2006 Act interpretation shall prevail (unless, in either case, the context otherwise requires) and in addition:

"Accounting officer" shall be the Officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets and performing the functions delegated to them by the Constitution in relation to the Trust's accounts. For this Trust it shall be the Chief Executive;

"Trust" means Bridgewater Community Healthcare NHS Foundation Trust;

"Board of Directors" and **"Board"** (unless the context otherwise requires) shall mean the Chair and other Non-Executive Directors, and the Executive Directors appointed by the relevant committee of the Trust;

"Council of Governors" means the Council of Governors of the Trust;

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

"Chair" is the person appointed by the Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression "the Chair of the Trust" shall be deemed to include the Deputy Chair of the Trust if the Chair is absent from the meeting or is otherwise unavailable;

"Chief Executive" shall mean the Chief Executive Officer of the Trust;

"Committee" shall mean a committee of the Board of Directors;

"Committee Members" shall be the Directors formally appointed by the Trust to sit on or to chair specific committees;

"Constitution" means the Constitution of the Trust;

"Contract" shall include any proposed contract or other course of dealing;

"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" shall mean a person appointed as a Director in accordance with the Constitution and includes the Chair;

"Finance Director" shall mean the Chief Finance Officer of the Trust;

"Funds held on Trust" shall mean those funds which the Trust holds on trust at its date of authorisation as an NHS Foundation Trust or chooses subsequently to accept. Such funds may or may not be charitable;

"Motion" means a formal proposition to be discussed and voted on during the course of a meeting;

"Nominated Officer" means an officer charged with the responsibility for discharging specific tasks within Standing orders (SOs) and Standing Financial Instructions (SFIs);

"Officer" means an employee of the Trust;

"SFIS" means Standing Financial Instructions;

"**SOS**" means Standing Orders;

"**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);

"**Secretary**" means a person who may be appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chair and monitor the Trust's compliance with the Regulatory Framework and these standing orders.

2. THE TRUST

- 2.1 All business shall be conducted in the name of the Trust.
- 2.2 The Trust has the functions conferred on it by the Regulatory Framework.
- 2.3 All funds received in trust shall be in the name of the Trust as corporate trustee. In relation to funds held on trust, powers exercised by the Trust as corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.
- 2.4 Directors acting on behalf of the Trust as a corporate trustee are acting as quasi-trustees. Accountability for charitable funds held on trust is to the Charity Commission.
- 2.5 The Trust has resolved that certain powers and decisions may only be exercised or made by the Board in formal session. Those powers and decisions delegated by the Board are set out in the "Scheme of Delegation", which has effect as if incorporated into the Standing Orders.
- 2.6 **Composition of the Board** - In accordance with, but always subject to, the provisions of the Constitution, the composition of the Board shall be:
- the Chair
 - Up to six other Non-Executive Directors excluding the Chair
 - Up to five Executive Directors including:
 - The Chief Executive (and Accounting Officer);
 - The Director of Finance;
 - A medical or dental practitioner; and
 - A registered nurse or registered midwife.
- 2.7 **Appointment of the Chair and other Non-Executive Directors** - The Chair and the other Non-Executive Directors are appointed by the Council of Governors.
- 2.8 **Appointment of the Executive Directors** - The Chief Executive is appointed by the Chair and other Non-Executive Directors, subject to the approval of the Council of Governors. The other Executive Directors are appointed by the

Appointments Committee that the Board shall appoint from time to time for that purpose.

- 2.9 **Terms of Office of the Chair and other Non-Executive Directors** - The regulations setting out the period of tenure of office of the Chair and other Non-Executive Directors and for the termination or suspension of office of the Chair and other Directors are contained in the Constitution of the Trust.
- 2.10 **Appointment of Deputy Chair** - Subject to SO 2.11 below, the Council of Governors will appoint one of the Non-Executive Directors to be Deputy Chair, for such period, not exceeding the remainder of their term as a Director, as they may specify on appointing them.
- 2.11 Any Director so appointed may at any time resign from the office of Deputy Chair by giving notice in writing to the Chair. The Council of Governors may thereupon appoint another Non-Executive Director as Deputy Chair in accordance with the provisions of Standing Order 2.10.
- 2.12 **Powers of Deputy Chair** - Where the Chair of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as Chair owing to illness or any other cause, the Deputy Chair shall act as Chair until a new Chair is appointed or the existing Chair resumes their duties, as the case may be; and references to the Chair in these Standing Orders shall, so long as there is no Chair able to perform their duties, be taken to include references to the Deputy Chair.
- 2.13 **Appointment and Powers of Senior Independent Director** - Subject to SO 2.14 below, the Chair (in consultation with the Non-Executive Directors and the Council of Governors) may appoint any Director, who is also a Non-Executive Director, to be the Senior Independent Director, for such period, not exceeding the remainder of their term as a Director, as they may specify on appointing them. The Senior Independent Director shall perform the role set out in the Trust's "Senior Independent Director Job Description", as amended from time to time by resolution of the Board.
- 2.14 Any Director so appointed may at any time resign from the office of Senior Independent Director by giving notice in writing to the Chair. The Chair (in consultation with the Non-Executive Directors and the Council of Governors) may thereupon appoint another Member of the Board as Senior Independent Director in accordance with the provisions of Standing Order 2.13.
- 2.15 The posts and duties of the Deputy Chair and Senior Independent Director will not be combined. This decision may be reviewed at any time by the Board of Directors, in consultation with the Council of Governors.
- 2.16 The role of the Senior Independent Director will include acting as a conduit for concerns to be raised by Governors if the usual mechanisms of contact and discussion have been exhausted and, subject to the agreement of the Council of Governors, making arrangements for the annual evaluation of the

performance of the Chair. The process to achieve this evaluation and its outcome will be agreed with and reported to the Council of Governors.

2.17 **Joint Executive Directors**

Where more than one person is appointed jointly to an Executive Director post those persons shall count as one person for the purposes of these standing orders:

- (a) either or both of those persons may attend or take part in meetings of the 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; and
- (d) the presence of either or both of those persons should count as the presence of one person for the purposes of a quorum.

2.18 **Role of Directors**

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 Board of Directors will be to consider the key strategic and managerial issues facing the Trust in carrying out its statutory and other functions.

(1) **Chief Executive**

The Chief Executive shall be responsible for the overall performance of the executive functions of the Trust. They are 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 Accounting Officer Memorandum for Trust Chief Executives.

(2) **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.

(3) **Chair**

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

2.19 Corporate role of the Board

- (1) All business shall be conducted in the name of the Trust.
- (2) All funds received in trust shall be held in the name of the Trust as corporate trustee.

2.20 Schedule of Matters reserved to the Board and Scheme of Delegation

The Board may resolve that certain powers and decisions be exercised only by the Board. These powers and decisions are set out in the Schedule of Matters Reserved to the Board 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.

3. MEETINGS OF THE BOARD

- 3.1 **Calling Meetings** - Ordinary meetings of the Board shall be held in public at such times and places as the Board may determine. If, for any reason, the Board of Directors agrees that all or any part of a meeting is to be held in private, the public and representatives of the press will be required to withdraw upon the Board of Directors resolving as follows:

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

Where admitted to a meeting, nothing in these SOs shall require the Board of Directors to allow members of the public or representatives of the press to record proceedings in any manner whatsoever, other than writing, or to make any oral report of proceedings as they take place without the prior agreement of the Board of Directors.

- 3.2 The Chair may call a meeting of the Board at any time. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of Directors, has been presented to them, or if, without so refusing, the Chair does not call a meeting within seven days after such requisition has been presented to them, at the Trust’s Headquarters, such one third or more Directors may forthwith call a meeting.
- 3.3 **Notice of Meetings** - Before each meeting of the Board, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chair or by an officer of the Trust authorised by the Chair to sign on their behalf shall be delivered to every Director, or sent by post to the usual place of residence of such Director, so as to be available to them at least six clear days before the meeting. The agenda will be sent to Directors six days before the meeting, including weekends. Supporting papers, whenever possible, shall accompany the agenda, but will certainly be dispatched no later than three clear days before the meeting, save in emergency.

- 3.4 Lack of service of the notice on any Director shall not affect the validity of a meeting.
- 3.5 In the case of a meeting called by Directors in default of the Chair, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice.
- 3.6 A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post or otherwise the day following electronic or facsimile transmission.
- 3.7 **Setting the Agenda** - The Board may determine that certain matters shall appear on every agenda for a meeting of the Board.
- 3.8 A Director desiring a matter to be included on an agenda shall make their request in writing to the Chair at least 15 clear days before the meeting, subject to Standing Order 3.3. 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 15 days before a meeting may be included on the agenda at the discretion of the Chair.
- 3.9 **Chair of Meeting** - At any meeting of the Board, the Chair, if present, shall preside. If the Chair is absent from the meeting the Deputy Chair, if there is one and they are present, shall preside. If the Chair and Deputy Chair are absent such Non-Executive Director as the Directors present shall choose shall preside.
- 3.10 If the Chair is absent from a meeting temporarily on the grounds of a declared conflict of interest the Deputy Chair, if present, shall preside. If the Chair and Deputy Chair are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose shall preside.
- 3.11 **Notices of Motion** - A Director of the Board desiring to move or amend a motion shall send a written notice thereof at least 15 clear days before the meeting to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under the appropriate regulations.

Emergency Motions: Subject to the agreement of the Chair, a member of the 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 or exclude the item shall be final.

3.12 **Motions: Procedure at and during a meeting**

i) **Who may propose**

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

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

iii) **Motion once under debate**

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

- An amendment to the motion;
- The adjournment of the discussion or the meeting;
- That the meeting proceed to the next business; (*)
- The appointment of an ad hoc committee to deal with a specific item of business;
- the motion be now put; (*)
- that a member/Director be not further heard; or
- a motion resolving to exclude the public, including the press.

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

iv) **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 Board. The Chair's decision on this will be final.

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.

v) **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.

- 3.13 **Withdrawal of Motion or Amendments** - A motion or amendment once moved and seconded may be withdrawn by the proposer.
- 3.14 **Motion to Rescind a Resolution** - Notice of motion to amend or rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the Director(s) who give(s) it and also the signature of three other Directors. Before considering any such motion of which notice shall have been given, the Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation. When any such motion has been disposed of by the Board, it shall not be competent for any Director other than the Chair to propose a motion to the same effect within six months; however, the Chair may do so if they consider it appropriate. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.
- 3.15 **Chair's Ruling** - Statements of Directors made at meetings of the Board shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevance, regularity and any other matters shall be observed at the meeting.
- 3.16 **Voting** - Every question at a meeting shall be determined by a majority of the votes of the Directors present and voting on the question. In the case of any equality of votes, the Chair shall have a further or casting vote.
- 3.17 All questions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A secret paper ballot may also be used if a majority of the Directors present so request.
- 3.18 If at least one-third of the Directors present so request, the voting (other than by secret paper ballot) on any question may be recorded to show how each Director present voted or abstained.
- 3.19 If a Director so requests, their vote shall be recorded by name upon any vote (other than by secret paper ballot).

- 3.20 In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 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;
 - A manager attending the Board meeting to represent an Executive Director during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Executive Director. An Officer's status when attending a meeting shall be recorded in the minutes;
 - For the voting rules relating to joint Executive Directors see Standing Order 2.17.
- 3.21 **Minutes** - The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it.
- 3.22 No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.
- 3.23 **Waiver of Standing Orders** - Except where this would contravene any statutory provision or any guidance issued by the Regulator, any one or more of the Standing Orders may be waived at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and two Non-Executive Directors, and that a majority of those present vote in favour of suspension.
- 3.24 A decision to waive Standing Orders shall be recorded in the minutes of the meeting.
- 3.25 The Audit Committee shall review every decision to waive Standing Orders.
- 3.26 **Suspension of Standing Orders** - Except where this would contravene any statutory provision or any guidance issued by Monitor, any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the Board are present, including one Executive Director and two Non-Executive Directors, and that a majority of those present vote in favour of suspension.
- 3.27 A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.
- 3.28 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Directors.

- 3.29 No formal business may be transacted while Standing Orders are suspended.
- 3.30 The Audit Committee shall review every decision to suspend Standing Orders.
- 3.31 **Variation and Amendment of Standing Orders** - These Standing Orders shall only be amended in accordance with paragraph 41 of the Constitution.
- 3.32 **Record of Attendance** - The names and titles of the Directors present at the meeting shall be recorded in the minutes.
- 3.33 **Quorum** - No business shall be transacted at a meeting of the Board unless at least seven of the whole number of the Directors is present, including not less than three Executive Directors (one of whom must be the Chief Executive or the Deputy Chief Executive), and not less than four Non-Executive Directors (one of whom must be the Chair or Vice-Chair of the Board).
- 3.34 If a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (see Standing Order 6 or 7) they shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business. The above requirement for at least one Executive Director to form part of the quorum shall not apply where the Executive Directors are excluded from a meeting (for example, when the Board considers the recommendations of the Remuneration Committee).
- 3.35 An Officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.

3.36 **Admission of public and the press**

(i) **Admission and exclusion on grounds of confidentiality of business to be transacted**

The public and representatives of the press may attend for formal business meetings of the Board of Directors, but shall be required to withdraw when the Board resolves as follows:

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

Guidance may be sought from the Trust's Freedom of Information Lead to ensure correct procedure is followed on matters to be included in the exclusion.

(ii) **General disturbances**

The Chair (or Deputy Chair if one has been appointed) or the person presiding over the meeting shall give such directions as he thinks fit with regard to the arrangements for meetings and accommodation of the public and representatives of the press such as to ensure that the Board's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the Board resolving as follows:

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

(iii) Business proposed to be transacted when the press and public have been excluded from a meeting

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

Directors or any employee of the Trust in attendance shall not reveal or disclose the contents of papers or minutes then discussed, without the express permission of the Chair or Chief Executive. This prohibition shall apply equally to the content of any discussion during the Board meeting which may take place on such reports or papers.

(iv) 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 Board or Committee thereof. Such permission shall be granted only upon resolution of the Board of Directors.

3.37 Observers at Board meetings

The Board 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 Board of Directors meetings and may change, alter, or vary these terms and conditions as it deems fit.

4. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION

4.1 In accordance with Paragraph 15 of Schedule 7 to the 2006 Act the powers of the Trust shall be exercisable by the Board on its behalf, save that (and subject to the Regulatory Framework and such guidance as may be issued by the Regulator) the Board may make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee of Directors of the Trust,

appointed by virtue of SO 5.1 or 5.2 below or by an Executive Director of the Trust in each case subject to such restrictions and conditions as the Board thinks fit.

- 4.2 **Emergency Powers** - The powers which the Board has retained to itself within these Standing Orders (SO 2.5) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chair, after having consulted two Non-Executive Directors where possible. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board for formal ratification.
- 4.3 **Delegation to Committees** - The Board shall agree from time to time to the delegation of executive powers to be exercised by committees or sub-committees, which it has formally constituted. The Constitution and terms of reference of these committees, or subcommittees, and their specific executive powers shall be approved by the Board.
- 4.4 **Delegation to officers** - Those functions of the Trust which have not been retained as reserved by the Board or delegated to other committees or sub-committees or joint-committees shall be exercised on behalf of the Trust by the Chief Executive. The Chief Executive shall determine which functions they will perform personally and shall nominate officers to undertake the remaining functions for which they will still retain accountability to the Trust.
- 4.5 The Chief Executive shall prepare a Schedule of Matters reserved to the Board and a Scheme of Delegation identifying their proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendment to the Schedule of Matters reserved to the Board and Scheme of Delegation which shall be considered and approved by the Board as indicated above.
- 4.6 Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Finance Director or other Executive Director to provide information and advise the Board in accordance with any statutory requirements or guidance issued by the Regulator. Outside these statutory requirements the roles shall be accountable to the Chief Executive for operational matters.
- 4.7 The arrangements made by the Board as set out in the Schedule of Matters reserved to the Board and Scheme of Delegation shall have effect as if incorporated in these Standing Orders.
- 4.8 **Overriding Standing Orders** – If for any reason these Standing Orders are not complied with, full details of the non-compliance and any justification for non-compliance and the circumstances around the non-compliance, shall be reported to the next formal meeting of the Board for action or ratification. All Board Directors and staff have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive or Chair of the Audit Committee as soon as possible.

5. COMMITTEES

- 5.1 **Appointment of Committees** - Subject to the Regulatory Framework and any guidance as may be issued by the Regulator, the Board may and, if so required by the Regulator, shall appoint committees of the Board, consisting wholly of Directors of the Board. The Trust shall determine the membership and terms of reference of these committees and shall if it requires to, receive and consider reports from them. There is no requirement to hold meetings of committees established by the Trust in public.
- 5.2 A committee appointed under SO 5.1 may, subject to any guidance issued by the Regulator and to any restriction imposed by the Board, appoint subcommittees consisting wholly of one or more members of the committee.
- 5.3 The Standing Orders of the Board, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees or sub-committee established by the Board.
- 5.4 Each such committee or sub-committee shall have such terms of reference and powers, reviewed annually, and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.
- 5.5 Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board.
- 5.6 The Board shall approve the appointments to each of the committees which it has formally constituted.
- 5.7 A member of a committee shall not disclose a matter dealt with by, or brought before, the committee without its permission until the committee shall have reported to the Board or shall otherwise have concluded on that matter.
- 5.8 A Director shall not disclose any matter reported to the Board or otherwise dealt with by the committee, notwithstanding that the matter has been reported or action has been concluded, if the Board or committee shall resolve that it is confidential.

5.9 Committees established by the Board of Directors

The Board may establish committees. These will include:

5.9.1 Audit Committee

In line with legislation and the Code of Governance, the Board of Directors will establish and constitute an Audit Committee to provide the Board with an independent and objective review of its financial and internal control systems, financial information and compliance with laws, guidance, and

regulations governing the NHS. The terms of reference will be approved by the Board and reviewed on an annual basis.

The Audit Committee will be composed of a minimum of three independent Non-Executive Directors, of which one must have significant, recent and relevant financial experience.

5.9.2 Remuneration and Terms of Service Committee

A Remuneration and Terms of Service Committee will be established and constituted by the Board of Directors, comprised of a minimum of three independent Non-Executive Directors. The terms of reference of the Committee will be approved by the Board and reviewed on an annual basis.

The purpose of the Committee will be to decide on the appropriate remuneration, allowances, and terms of and conditions of service for the Chief Executive and other Executive Directors including:

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

The Committee may also recommend and monitor the level and structure of remuneration for senior management.

5.9.3 Trust and Charitable Funds Committee

In line with its role as a corporate trustee for any funds held in trust, either as charitable or non-charitable funds, the Board may establish a Trust and Charitable Funds Committee to administer those funds in accordance with any statutory or other legal requirements or best practice required by the Charities Commission.

5.9.4 Appointments Committee

The Board shall appoint from time to time an Appointments Committee comprised of the Chair, the other Non-Executive Directors and the Chief Executive. The purpose of the Appointments Committee shall be to appoint the Executive Directors other than the Chief Executive.

5.9.5 Other Committees

The Board may also establish such other committees as required to discharge its responsibilities, for example a Finance and Investment Committee.

6. DECLARATIONS OF INTERESTS AND REGISTER OF INTERESTS

- 6.1 **Declaration of Interests** - Each Director shall declare any interest that they are required to declare pursuant to paragraph 29 of the Constitution. All existing Directors should declare such interests. Any Directors appointed subsequently should do so on appointment.
- 6.2. If Directors have any doubt about the relevance of an interest, this should be discussed with the Chair.
- 6.3 **Not used.**
- 6.4 At the time Directors' interests are declared, they should be recorded in the board minutes. Any changes in interests should be declared at the next Board meeting following the change occurring.
- 6.5 Directors' directorships of companies likely or possibly seeking to do business with the NHS should be published in the Board's annual report. The information should be kept up to date for inclusion in succeeding annual reports.
- 6.6 During the course of a Board meeting, if a conflict of interest is established, the Director concerned should withdraw from the meeting and play no part in the relevant discussion or decision.
- 6.7 **Not used**
- 6.8 **Register of Interests** - the Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Directors. In particular, the Register will include details of all directorships and other interests which have been declared by both Executive and Non-Executive Directors. Attendees of Board Committees who are not Board Directors will be required to declare any interests in accordance with paragraph 29 of the Constitution.
- 6.9 These details will be kept up to date on a regular basis, and the Register will be formally reviewed once a year.
- 6.10 The Register will be available to the public and the Secretary will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it.
- 6.11 In establishing, maintaining, updating and publicising the Register, the Trust shall comply at all times with the Regulatory Framework and any guidance issued by the Regulator. In the event of conflict between these Standing Orders and the Regulatory Framework or guidance issued by the Regulator, the latter shall prevail.

6.12 Standing Order 6 applies to a committee or sub-committee of the Board as it applies to the Board and applies to all members of any such committee or sub-committee whether or not he or she is also a Director.

7. Not used

8. STANDARDS OF BUSINESS CONDUCT

8.1 **Policy** - Staff must comply with the national guidance contained in HSG (93)5 'Standards of Business Conduct for NHS staff', the Trust's Standards for Business Conduct, and any guidance issued by the Regulator. In addition, they must adhere to the Trust's Counter Fraud Policy and Procedure for Staff, and any other guidance produced by the Trust.

8.2 **Interest of Officers in Contracts** - If it comes to the knowledge of a Director or an officer of the Trust that a contract in which they have any pecuniary interest not being a contract to which they themselves are a party, has been, or is proposed to be, entered into by the Trust they shall, at once, give notice in writing to the Chief Executive of the fact that they are interested therein. In the case of married persons or persons living together as partners, the interest of one partner shall, if known to the other, be deemed to be also the interest of that partner.

8.3 An officer must also declare to the Chief Executive any other employment or business or other relationship of theirs, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust. The Chief Executive will ensure that such declarations are formally recorded.

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

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

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

8.7 **Relatives of Directors or Officers** - Candidates for any staff appointment shall when making application disclose in writing whether they are related to any Director or the holder of any office under the Trust. Failure to disclose

such a relationship shall disqualify a candidate and, if appointed, render them liable to instant dismissal.

- 8.8 The Directors and every officer of the Trust shall disclose to the Chief Executive any relationship with a candidate of whose candidature that Director or officer is aware. It shall be the duty of the Chief Executive to report to the Trust any such disclosure made.
- 8.9 On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other Director or holder of any office within the Trust.
- 8.10 Where the relationship of an officer or another Director to a Director of the Trust is disclosed, the Standing Order headed 'Disability of Directors in proceedings on account of pecuniary interest' (SO 7) shall apply.

9. CUSTODY OF SEAL AND SEALING OF DOCUMENTS

- 9.1 **Custody of Seal** - the Common Seal of the Trust shall be kept by the Trust Secretary in a secure place.
- 9.2 **Sealing of Documents** - where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of two Directors of the Board, not from the originating department, and shall be attested by them. A report of all sealings shall be made to the Trust Board at least quarterly.
- 9.4 **Register of Sealing** – the Secretary shall keep a register in which they, or another manager of the Trust authorised by them, shall enter a record of the sealing of every document.

10. SIGNATURE OF DOCUMENTS

- 10.1 Where the signature of any document will be a necessary step in legal proceedings involving the Trust, it shall be signed by the Chief Executive or their nominated deputy, unless any enactment otherwise requires or authorises, or the Board shall have given the necessary authority to some other person for the purpose of such proceedings.
- 10.2 In land transactions, the signing of certain supporting documents will 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), which may only be signed by the Chief Executive or their nominated deputy with a second Director as in SO 9.2 for documents requiring sealing.

11. MISCELLANEOUS

- 11.1 **Standing Orders to be given to Directors and Officers** - it is the duty of the Chief Executive to ensure that existing Directors and officers and all new

appointees are notified of and understand their responsibilities within Standing Orders and SFIs. Updated copies shall be issued to staff designated by the Chief Executive. New designated officers shall be informed in writing and shall receive copies where appropriate of SOs.

- 11.2 **Documents having the standing of Standing Orders** - standing Financial Instructions, the Schedule of Matters reserved for the Board, and Scheme of Delegation shall have the effect as if incorporated into Standing Orders.

ANNEX 8 – FURTHER PROVISIONS

Paragraph 10

1. Membership

- 1.1. When an individual applies to be a member, he or she will be asked to select one of the following levels of membership:
 - 1.1.1. Level 1: Receive information about the Trust and issues affecting local health services at regular intervals, including invitations to events including the Annual Members' Meeting and Annual General Meeting, receive voting papers for the elections to the Council of Governors.
 - 1.1.2. Level 2: Members will receive the same information as Level 1 members and receive invitations to participate in surveys and discussion groups, which will allow members to comment on service developments and the Trust's future strategic plans.
 - 1.1.3. Level 3: Members will receive the same information as Level 1 and 2 members and will also receive more detailed information about Governor vacancies, how to stand for election as a Governor and receive invites to events for potential Governors.
- 1.2. The purpose of this provision is to ensure that members are able to choose the level of involvement with the Trust.
- 1.3. A member will be able to change their preference at any time.

2. Expulsion from Membership Procedure

- 2.1. A member may be expelled by a resolution approved by not less than two-thirds of the Governors present and voting at a general meeting. The following procedure is to be adopted:
 - 2.1.1. Any member may complain to the Secretary that another member has acted in a way detrimental to the interests of the Trust.
 - 2.1.2. If a complaint is made, the Council of Governors may itself consider the complaint having taken such steps as it considers appropriate to ensure that each member's point of view is heard and may:
 - 3.2.2.1 dismiss the complaint and take no further action; or
 - 3.2.2.1 for a period not exceeding twelve months suspend the rights of the member complained of to attend members meetings and vote under this Constitution; or
 - 3.2.2.1 arrange for a resolution to expel the member complained of to be considered at the next general meeting of the Council of Governors.

- 2.1.3. If a resolution to expel a member is to be considered at a general meeting of the Council of Governors, details of the complaint must be sent to the member complained of not less than one calendar month before the meeting with an invitation to answer the complaint and attend the meeting.
- 2.1.4. At the meeting the Council of Governors will consider evidence in support of the complaint and such evidence as the member complained of may wish to place before them.
- 2.1.5. If the member complained of fails to attend the meeting without due cause the meeting may proceed in their absence.
- 2.2. A person expelled from membership will cease to be a member upon the declaration by the Chair of the meeting that the resolution to expel them is carried.
- 2.3. No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a general meeting.

3. Dispute Resolution Procedures

- 3.1. In the event of any dispute about the entitlement to membership the dispute shall be referred to the Trust Secretary who shall make a determination on the point in issue. If the Member or applicant (as the case may be) is aggrieved at the decision of the Secretary he may appeal in writing within 14 days of the Trust Secretary's decision to the Council of Governors whose decision shall be final.
- 3.2. In the event of any dispute about the eligibility and disqualification of a Governor the dispute shall be referred to the Council of Governors whose decision shall be final.
- 3.3. In the event of dispute between the Council of Governors and the Board of Directors:
 - 3.3.1. in the first instance the Chair on the advice of the Trust Secretary, and such other advice as the Chair may see fit to obtain, shall seek to resolve the dispute;
 - 3.3.2. if the Chair is unable to resolve the dispute he or she shall refer the dispute to the Senior Independent Director; and
 - 3.3.3. if the recommendations (if any) of the joint special committee are unsuccessful in resolving the dispute, the Chair may refer the dispute back to the Board of Directors who shall make the final decision.

4. Indemnity

- 4.1. Members of the Council of Governors and Board of Directors who act honestly and in good faith will not have to meet out of their personal resources any

personal civil liability which is incurred in the execution or purported execution of their Council of Governors or Board of Directors functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust.

- 4.2. The Trust must make such arrangements as it considers appropriate for the provision of indemnity insurance or similar arrangement for the benefit of the Trust, Governors and Directors to meet all or any liabilities which are properly the liabilities of the Trust under the paragraph above.

ANNEX 9 – ANNUAL MEMBERS’ MEETINGS

1. Interpretation

- 1.1. Any expression to which a meaning is given in the National Health Service Act 2006 has the same meaning in this interpretation and in addition:

CHAIR is the person appointed by the Council of Governors to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole;

MEMBER means a person who is a member of the Trust and whose name has been entered in the register of members;

OFFICER means an employee of the Trust;

TRUST means Bridgewater Community Healthcare NHS Foundation Trust.

- 1.2. Save as permitted by law, the Chair of the Trust shall be the final authority on the interpretation of these Standing Orders (on which they shall be advised by the Chief Executive and Director of Finance).

2. General Information

- 2.1. The purpose of the Standing Orders for Annual Members’ Meetings is to ensure that the highest standards of corporate governance and conduct are applied to all Annual Members’ Meetings.
- 2.2. All business shall be conducted in the name of the Trust.

3. Attendance

- 3.1. Each Member shall be entitled to attend an Annual Members’ Meeting.

4. Meetings in Public

- 4.1. Annual Members’ Meetings must be open to the public.
- 4.2. The Chair may exclude any member of the public from an Annual Members’ Meeting if he is interfering with or preventing the reasonable conduct of the meeting.
- 4.3. Annual Members’ Meetings shall be held at such times and places that the Chair may determine.

5. Notice of Meetings

- 5.1. At least 14 days before each Annual Members’ Meeting, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chair, or by an officer of the Trust authorised by the Chair to sign on

their behalf, shall be displayed at the Trust's head office and posted on the Trust's website.

6. Setting the Agenda

6.1. The Chair shall determine the agenda for Annual Members' Meetings.

7. Chair of Annual Members' Meetings

7.1. The Chair, if present, shall preside. If the Chair is absent from the meeting, the Deputy Chair shall preside.

8. Chair's Ruling

8.1. Statements made by any person at an Annual Members' Meeting shall be relevant to the matter under discussion at the material time and the decision of the Chair of the meeting on questions of order, relevancy, regularity and any other matters shall be observed at the meeting.

9. Voting

9.1. Decisions at meetings shall be determined by a majority of the votes of the Members present and voting. In the case of any equality of votes, the person presiding shall have a second or casting vote.

9.2. All decisions put to the vote shall, at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands.

9.3. A Member may not vote at an Annual Members' Meeting unless they have made a declaration in the specified form that they are a member of a Public Constituency.

9.4. The form and content of the declaration for the purposes of paragraph 9.3 above shall be specified and published by the Trust from time to time and shall be so published not less than 28 days prior to the Annual Members' Meeting.

9.5. In no circumstances may an absent Member vote by proxy.

10. Suspension of Standing Orders

10.1. Except where this would contravene any statutory provision, any one or more of these Standing Orders may be suspended at an Annual Members' Meeting, provided that a majority of Members present vote in favour of suspension.

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

10.3. A separate record of matters discussed during the suspension of the Standing Orders shall be made and shall be available to the Members.

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

10.5. The Trust's Audit Committee shall review every decision to suspend the Standing Orders.

11. Variation and Amendment of Standing Orders

11.1. These Standing Orders may be amended in accordance with paragraph 41 of the Constitution.

12. Record of Attendance

12.1. The Secretary shall keep a record of the names of the Members present at an Annual Members' Meeting.

13. Minutes

13.1. The Minutes of the proceedings of an Annual Members' Meeting shall be drawn up and maintained as a public record. They will be submitted for agreement at the next Annual Members' Meeting where they will be signed by the person presiding at it.

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

13.3. The Minutes of an Annual Members' Meeting shall be made available to the public on the Trust's website.

14. Quorum

14.1. No business shall be transacted at an Annual Members' Meeting unless at least 6 Members are present.

14.2. If no quorum is present within half an hour of the time fixed for the start of the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other time and place as the Chair shall determine. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of Members present at the adjourned meeting is to be the quorum.

ISSUE DATE	June 2022
REVIEW DATE	June 2023

Version Control Sheet

Version	Date	Reviewed By	Comment
2.0	June 2022	Council of Governors	<p>Reference to Monitor amended to NHS Improvement as the Regulator</p> <p>11.3 Amendment to frequency of elections and reference to Annex 3</p> <p>12.2. amended Department of Health to NHS Providers</p> <p>14. Update of statutory provisions</p> <p>22.3 & 22.4 definition of term of office and tenure of Chair and Non-Executive Directors</p> <p>27. Update of statutory provisions</p> <p>41.1.3. clarification of a casting vote</p> <p>42.2. amendment: Governors are required to approve significant transactions</p> <p>Annex 1:</p> <p>The Public Constituencies: amendment to number of members</p> <p>Annex 2:</p> <p>The Staff Constituency: amendment to the number of members</p> <p>Annex 3:</p> <p>Frequency of Elections added</p> <p>Annex 4:</p> <p>Composition of Council of Governors:</p> <ul style="list-style-type: none"> • amendment to composition • removal of paragraph 3 (duplicate of point 2) <p>Annex 5:</p> <p>2.3. Removed reference to Annex 4</p> <p>3.2. Corrected reference to 3.1</p> <p>5.1.7. Corrected reference to 5.2</p> <p>3.3.2. Amendment to 5 clear days in advance</p> <p>3.9. Amendment to 5 days prior to the meeting</p> <p>3.11. Amendment to appointment of nominated chair in event of absence/conflict of interest</p> <p>3.26.3. Removal of obsolete point</p> <p>3.31. Amendment of quorum to reflect 50% of the Council being present where Public Governors outnumber Staff and Appointed Governors</p> <p>3.33 Revision of Board quoracy to reflect the</p>

			<p>approved Terms of Reference</p> <p>Annex 9:</p> <p>14.1 Amendment of quorum to reflect 6 Members present at the AMM</p> <p>General</p> <p>Chair amended to Chair</p> <p>He/she and his/hers amended to they/theirs/them</p> <p>Addition of issued and review dates</p>
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