

Ms D M Cannings QPM  
Chairman  
Yorkshire Ambulance Service NHS Trust  
Springhill 2  
Brindley Way  
Wakefield  
WF2 0XQ


5 October 2012

Dear Ms Cannings

**Foundation Trust application**

Having reviewed the attached draft of the Trust's Constitution, we write to confirm our opinion that the Constitution complies with Schedule 7 of the National Health Service Act 2006 (Constitution of Public Benefit Corporations) (as amended by those provisions of the Health and Social Care Act 2012 that are already in force) and the known requirements of Monitor.

Yours sincerely



**Catherine Fawlk**  
Senior Solicitor  
for Mills & Reeve LLP

Enc Draft Constitution



# Yorkshire Ambulance Service NHS Foundation Trust 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.

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.

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

**Monitor** is the Independent Regulator of NHS Foundation Trusts, as provided by Section 61 of the 2012 Act.

**terms of Authorisation** are the terms of authorisation issued by Monitor under Section 35 of the 2006 Act.

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

## **2. Name**

The name of the foundation trust is Yorkshire Ambulance Service 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, subject to any restrictions in the terms of Authorisation.
- 4.2 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 the 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 Constituency**

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

#### **8. Staff Constituency**

- 8.1 An individual who is employed by the trust under a contract of employment with the trust may become or continue as a member of the trust provided:
- 8.1.1 (s)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 (s)he has been continuously employed by the trust under a contract of employment for at least 12 months.
- 8.2 Individuals, other than volunteers, 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 two 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 (s)he informs the trust that (s)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 16 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.

## **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 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 using the “first past the post” method.
- 12.2. The Model Election Rules as published from time to time by the Department of Health 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 the constitution (amendment of the constitution).
- 12.4 An election, if contested, shall be by secret ballot.
- 12.5 The trust may redact or refuse to circulate any candidate’s statement that in its reasonable opinion it considers may expose the trust to litigation.
- 12.6 Candidates standing for election as a governor shall send to the trust (marked for the attention of the Trust Secretary) copies of receipts for their expenses, within 28 days after the close of the poll in line with Rule 56 of the Model Election Rules (Annex 5 refers).



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

- 13.1 An elected governor may hold office for a period of up to 3 years. The initial terms for the first elected governors of the trust are set out in Annex 6.
- 13.2 An elected governor shall cease to hold office if (s)he ceases to be a member of the constituency or class by which (s)he was elected.
- 13.3 An elected governor shall be eligible for re-election at the end of her/his first term, but not at the end of her/his second term.
- 13.4 An appointed governor may hold office for a period of up to 3 years.
- 13.5 An appointed governor shall cease to hold office if the appointing organisation withdraws its sponsorship of her/him.
- 13.6 An appointed governor shall be eligible for re-appointment at the end of her/his first term, but not at the end of her/his second term.
- 13.7 No governor shall hold office for more than 6 years. This rule applies even if the periods of office are not consecutive.

### **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 adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
  - 14.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, her/his creditors and has not been discharged in respect of it;
  - 14.1.3 a person who within the preceding five years has been convicted in the British 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 Board of Governors are set out in Annex 6.

14.4 Annex 6 makes provision for the removal of governors.

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

15.1 The Chairman of the trust (i.e. the Chairman of the Board of Directors, appointed in accordance with the provisions of paragraph 22.1 or paragraph 23.1 below) or, in her/his absence the Deputy Chairman (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.

#### **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 (s)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 Chairman

- 20.2.2 up to 6 other non-executive directors; and
- 20.2.3 up to 6 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.

**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 (s)he is a member of the Public Constituency, and
- 21.2 (s)he is not disqualified by virtue of paragraph 27 below.

**22. Board of Directors – appointment and removal of chairman 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 chairman of the trust and the other non-executive directors.
- 22.2 Removal of the chairman or another non-executive director shall require the approval of three-quarters of the members of the Council of Governors.
- 22.3 The initial chairman and the initial non-executive directors are to be appointed in accordance with paragraph 23 below.

**23. Board of Directors – appointment of initial chairman and initial other non-executive directors**

- 23.1 The Council of Governors shall appoint the chairman of the applicant NHS Trust as the initial chairman of the trust, if (s)he wishes to be appointed.
- 23.2 The power of the Council of Governors to appoint the other non-executive directors of the trust is to be exercised, so far as possible, by

appointing as the initial non-executive directors of the trust any of the non-executive directors of the applicant NHS Trust (other than the Chairman) who wish to be appointed.

- 23.3** The criteria for qualification for appointment as a non-executive director set out in paragraph 21 above (other than disqualification by virtue of paragraph 27 below) do not apply to the appointment of the initial chairman and the initial other non-executive directors in accordance with the procedures set out in this paragraph.
- 23.4** An individual appointed as the initial chairman or as an initial non-executive director in accordance with the provisions of this paragraph shall be appointed for the unexpired period of her/his term of office as Chairman or (as the case may be) non-executive director of the applicant NHS Trust; but if, on appointment, that period is less than 12 months, (s)he shall be appointed for 12 months.

#### **24. Board of Directors – appointment of deputy chairman**

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the non-executive directors as a deputy chairman.

#### **25. Board of Directors - appointment and removal of the Chief Executive and other executive directors**

- 25.1** The Chairman and the other 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** The initial Chief Executive is to be appointed in accordance with paragraph 26 below.
- 25.4** A committee consisting of the Chairman, the Chief Executive and the other non-executive directors shall appoint or remove the other executive directors.

#### **26. Board of Directors – appointment and removal of initial Chief Executive**

- 26.1** The Chairman and the other non-executive directors shall appoint the chief officer of the applicant NHS Trust as the initial Chief Executive of the trust, if (s)he wishes to be appointed.
- 26.2** The appointment of the chief officer of the applicant NHS trust as the initial Chief Executive of the trust shall not require the approval of the Council of Governors.

## **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 who has made a composition or arrangement with, or granted a trust deed for, her/his creditors and has not been discharged in respect of it.
- 27.3** 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.

## **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**

If a director 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 Board of Directors, the director shall disclose that interest to the members of the Board of Directors as soon as (s)he becomes aware of it. The Standing Orders for the Board of Directors shall make provision for the disclosure of interests and arrangements for the automatic exclusion of a director declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

## **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 Chairman 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 (s)he belongs and, where there are classes within it, the class to which (s)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. Admission to and removal from the registers**

The Trust Secretary shall make arrangements for admission to and removal from the registers, which in the case of the register of members may be carried out by the Trust Secretary, delegated to a membership manager or other member of staff, or provided by an external supplier.

## **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 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.
- 33.3 So far as the registers are required to be made available:
  - 33.3.1 they are to be available for inspection free of charge at all reasonable times; and
  - 33.3.2 a person who requests a copy of or extract from the registers is to be provided with a copy or extract.
- 33.4 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.

## **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 current authorisation;

- 34.1.3 a copy of the latest annual accounts and of any report of the auditor on them;
- 34.1.4 a copy of the latest annual report;
- 34.1.5 a copy of the latest information as to its forward planning; and
- 34.1.6 a copy of any notice given under section 52 of the 2006 Act.

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

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

### **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. Annual Accounts**

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

37.2 Monitor may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

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

37.3 The trust shall prepare in respect of each financial year annual accounts in such form as Monitor may with the approval of the Secretary of State direct.

37.4 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 Monitor.
- 38.2 The trust shall give information as to its forward planning in respect of each financial year to Monitor.
- 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. Meeting of Council of Governors to consider annual accounts and reports**

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

- 39.1 the annual accounts
- 39.2 any report of the auditor on them
- 39.3 the annual report.



#### **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** Amendments by the trust of its constitution are to be made with the approval of Monitor. For the avoidance of doubt, any amendments to the annexes attached to this constitution must also be approved by Monitor. The procedure for amending the constitution is set out in Annex 9.

## ANNEX 1 – THE PUBLIC CONSTITUENCY

The trust's public constituencies and the minimum number of members for each area are as follows:

<b>Constituency</b>	<b>Area</b> (the electoral wards of the following local authorities)	<b>Minimum membership</b>
North	Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council, Selby District Council and City of York Council.	42
East	East Riding of Yorkshire Council, Kingston upon Hull City Council. North East Lincolnshire Council and North Lincolnshire Council.	58
South	Barnsley Metropolitan Borough Council, Doncaster Metropolitan Borough Council, Rotherham Metropolitan Borough Council, Sheffield City Council. And Bassetlaw District Council	90
West	City of Bradford Metropolitan District Council, Calderdale Metropolitan Borough Council, Kirklees Metropolitan Borough Council, Leeds City Council and Wakefield Metropolitan District Council.	136

## ANNEX 2 – THE STAFF CONSTITUENCY

The trust's staff constituency, the classes of the constituency and the minimum number of member for each class as follows:

<b>Class</b>	<b>Composition</b>	<b>Minimum membership</b>
Frontline	Staff who provide direct patient care, whether that be face to face or indirectly via the telephone or other means of communication	66
Support	All other staff	24

**ANNEX 3 – NOT USED**

## ANNEX 4 – COMPOSITION OF COUNCIL OF GOVERNORS

The composition of the trust's Council of Governors is as follows:

<b>Elected governors</b>	
North	2
East	2
South	3
West	6
<b>Total public governors = 13</b>	
Frontline	3
Support	1
<b>Total staff governors = 4</b>	
Bradford and Airedale PCT or its successor in commissioning the Trust's services previously commissioned by that PCT or, if there is more than one such successor, the body commissioning the single largest value of the Trust's services previously commissioned by the PCT	1
North Yorkshire and York PCT or its successor in commissioning the Trust's services previously commissioned by that PCT or, if there is more than one such successor, the body commissioning the single largest value of the Trust's services previously commissioned by the PCT.	1
East Riding of Yorkshire Council	1
Sheffield City Council	1
Barnsley Hospital NHS Foundation Trust	1
Leeds Partnerships NHS Foundation Trust	1
West Yorkshire Police	1
<b>Total appointed governors = 7</b>	
	<b>Total number of governors = 24</b>

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

### **Model Election Rules (for inclusion within the model core constitution)**

#### *Part 1 – Interpretation*

1. Interpretation

#### *Part 2 – Timetable for election*

2. Timetable
3. Computation of time

#### *Part 3 – Returning officer*

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

#### *Part 4 - Stages Common to Contested and Uncontested Elections*

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

#### *Part 5 – Contested elections*

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

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

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

### *The poll*

26. Eligibility to vote
27. Voting by persons who require assistance
28. Spoilt ballot papers
29. Lost ballot papers
30. Issue of replacement ballot paper
31. Declaration of identity for replacement ballot papers

### *Procedure for receipt of envelopes*

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

### *Part 6 - Counting the votes*

36. This is left intentionally blank.
37. Arrangements for counting of the votes
38. The count
39. Rejected ballot papers
40. )
41. )
42. ) These are left intentionally blank.
43. )
44. )
45. )
46. Equality of votes

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

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

### *Part 8 – Disposal of documents*

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

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

54. Countermand or abandonment of poll on death of candidate

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

55. Expenses incurred by candidates
56. Expenses incurred by other persons
57. Personal, travelling, and administrative expenses

*Publicity*

- 58. Publicity about election by the corporation
- 59. Information about candidates for inclusion with voting documents
- 60. Meaning of “for the purposes of an election”

*Part 11 – Questioning elections and irregularities*

- 61. Application to question an election

*Part 12 – Miscellaneous*

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

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



**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 his or her 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 his or her functions under these rules.

#### *Part 4 - Stages Common to Contested and Uncontested Elections*

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

- (a) the constituency, or class within a constituency, for which the election is being held,
- (b) the number of members of the Council of Governors to be elected from that constituency, or class within that constituency,

- (c) the details of any nomination committee that has been established by the 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 Council of Governors by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the constitution; and,
- (b) for a member of the public constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

**13. Signature of candidate** – 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 Council 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 Council 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 Council of Governors, then –

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

#### *Part 5 – Contested elections*

**19. Poll to be taken by ballot** – (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 Council of Governors to be elected from that constituency, or class within that constituency,
- (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) instructions on how to vote,
- (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
- (g) the contact details of the returning officer.

(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 constituencies)** – (1) In respect of an election for a public 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 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.

*Action to be taken before the poll*

**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 his or her 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 Council of Governors to be elected from that constituency, or class with that constituency,
- (d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
- (e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,
- (f) the address for return of the ballot papers, and the date and time of the close of the poll,
- (g) the address and final dates for applications for replacement ballot papers, 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 his or her 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 spoilt 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 his or her ballot paper by the fourth day before the close of the poll, that voter may apply to the returning officer for a replacement ballot paper.

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

- (a) is satisfied as to the 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), he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.

(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. This is left intentionally blank.**

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

shall, subject to paragraphs (2) and (3) below, be rejected and not counted.

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

(3) A ballot paper on which a vote is marked –

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

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

(4) The returning officer is to –

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under paragraph (2) or (3) above, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

(5) The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings –

- (a) does not bear proper features that have been incorporated into the ballot paper,
- (b) voting for more candidates than the voter is entitled to,
- (c) writing or mark by which voter could be identified, and
- (d) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of ballot papers rejected in part.

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**45.** This is left intentionally blank.

**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 candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the Council of Governors from the constituency, or class within a constituency, for which the election is being held to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected–
  - (i) where the election is held under a proposed constitution pursuant to powers conferred on the Yorkshire Ambulance Service NHS Foundation Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or
  - (ii) in any other case, to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

(2) The returning officer is to make –

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule fpp39(5),

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 he or she has declared elected to the chairman of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

*Part 8 – Disposal of documents*

**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 spoiled 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,

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

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

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

(3) Where a poll is abandoned under paragraph (1)(a), paragraphs (4) to (7) are to apply.

(4) The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 33 and 34, and is to make up separate sealed packets in accordance with rule 35.

(5) The returning officer is to –

- (a) count and record the number of ballot papers that have been received, and

- (b) seal up the ballot papers into packets, along with the records of the number of ballot papers.
- (6) The returning officer is to endorse on each packet a description of –
- (a) its contents,
  - (b) the date of the publication of notice of the election,
  - (c) the name of the corporation to which the election relates, and
- (d) the constituency, or class within a constituency, to which the election relates.
- (7) Once the documents relating to the poll have been sealed up and endorsed pursuant to paragraphs (4) to (6), the returning officer is to deliver them to the chairman of the corporation, and rules 52 and 53 are to apply.

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

- (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 the poll, with the agreement of the Regulator.

## ANNEX 6 – ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

### Initial terms of office of first elected governors

1. The initial terms of office of the governors elected at the trust’s first governor elections shall be as set out in the table below:

Constituency or class	Initial term
North	Governor with most votes in the election           3 years Other governor       2 years
East	Governor with most votes in the election           3 years Other governor       2 years
South	The two governors with most votes in the election       3 years Other governor       2 years
West	The three governors with most votes in the election       3 years Other governors     2 years
Frontline	The two governors with most votes in the election       3 years Other governor       2 years
Support	3 years

### Further Provisions as to Eligibility to be a Governor

2. A person may not become a governor of the trust, and if already holding office shall immediately cease to do so, if:
- (a) (s)he is not (or ceases to be) a member of the trust (Annex 9 refers); or
  - (b) (s)he is a Director of the trust or a governor or director of an NHS body (unless (s)he is appointed by one of the appointing organisations which is an NHS body);
  - (c) (s)he is a member of a local authority’s Scrutiny Committee covering health matters in an area served by the trust;
  - (d) being a member of the public constituency, (s)he refuses to sign a declaration in the form specified by the Trust Secretary of particulars of her/his qualification to vote as a member of the trust, and that (s)he is not prevented from being a member of the Council of Governors;

- (e) on the basis of disclosures obtained through an application to the Criminal Records Bureau, (s)he is not considered suitable by the trust's Director responsible for Human Resources;
  - (f) (s)he does not cooperate with the trust in making any application to the Criminal Records Bureau when requested to do so from time to time by the trust's Director responsible for Human Resources.
  - (g) (s)he has within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with an NHS body;
  - (h) (s)he is a person whose tenure of office as the Chairman or as a member or director of an NHS body has been terminated on the grounds that her/his appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
  - (i) in the case of an elected governor, (s)he is not (or ceases to be) a member of the constituency or class to which the governorship relates (Annex 9 refers);
  - (j) (s)he is on the register of sex offenders;
  - (k) at any time when (s)he is not eligible to be a Governor, (s)he fails to notify the trust forthwith that (s)he is not eligible to be a Governor.
3. In the event of dispute regarding a person's eligibility to become or continue as a Governor the Trust Secretary shall refer the point at issue to an independent assessor agreeable to both parties and the decision of such assessor shall be final.

### **Termination of a Governor's Tenure**

4. Where a person has been elected or appointed to be a Governor and (s)he becomes disqualified from office under this Constitution, (s)he shall notify the Trust Secretary in writing of such disqualification as soon as practicable and in any event within 14 days of first becoming aware of those matters which render her/him disqualified.
5. If it comes to the notice of the Trust Secretary that a Governor is disqualified whether at the time of the Governor's election or appointment or later, the Trust Secretary shall declare that the individual in question is disqualified and give her/him notice in writing to that effect. In the event that the Governor disputes that (s)he is disqualified, the Governor may refer the matter to the appeal procedure set out in paragraph 3 of this Annex within 14 days of the date upon which the notice was given to the Governor.

6. A person holding office as a Governor shall immediately cease to do so if:
  - (a) (s)he resigns by notice in writing to the Trust Secretary;
  - (b) (s)he has failed within a reasonable period to sign and deliver to the Trust Secretary a statement in the form required by the trust confirming acceptance of the trust's code of conduct for governors; or
  - (c) (s)he is removed from the Council of Governors under the following provisions.
  
7. A Governor may be removed from office by a resolution of the Council of Governors approved by not less than three-quarters of the remaining Governors present and voting on the grounds that:
  - (a) (s)he fails to attend three consecutive meetings of the Council of Governors, unless the other Governors are satisfied that:
    - (i) the absences were due to reasonable causes, and
    - (ii) (s)he will be able to start attending meetings of the Council of Governors again within a reasonable period;or
  - (b) (s)he has refused without reasonable cause to undertake any training which the Council of Governors requires all Governors to undertake; or
  - (c) (s)he has committed a serious breach of the trust's code of conduct for Governors; or
  - (d) (s)he has acted in a manner detrimental to the interests of the trust; or
  - (e) it is not in the best interests of the trust for her/him to continue as a Governor.
  
8. In the event of an allegation being made against a Governor on a matter which may render the Governor liable for removal from office under the provisions of paragraph 11 of this Annex, the Chairman shall be authorised to take such action as may be immediately required, including but not limited to exclusion of the Governor concerned from meetings of the Council of Governors, to allow investigation of such allegation.
  
9. The Governor in question shall be notified in writing of the allegation, detailing the grounds for removal and inviting her/his response within a defined and reasonable timescale.
  
10. If the matter cannot be resolved satisfactorily through correspondence, the Governor shall be invited to address the Council of Governors in person prior to any vote on a resolution to remove the Governor from office.



11. A Governor removed from office by resolution of the Council of Governors may appeal against removal in writing to the Trust Secretary within 14 days of the date upon which notice of the Council of Governors' decision is given to the Governor concerned, and on receipt of such an appeal the Trust Secretary shall follow the procedure set out in paragraph 8 of this Annex.
12. Upon resignation or disqualification or removal of a Governor, the Trust Secretary shall cause her/his name to be removed immediately from the Register of Governors.
13. A Governor who resigns or is disqualified or removed from office shall not be eligible to be re-appointed or to stand for re-election as a Governor for a period of three years from the date of her/his resignation or disqualification or removal from office or the date upon which any appeal against her/his disqualification or removal from office is disposed of, whichever is later.

### **Vacancies amongst Governors**

14. Where a vacancy arises on the Council of Governors, the following provisions will apply.
15. Where the vacancy arises amongst the appointed Governors, the Trust Secretary shall request that the appointing organisation appoints a replacement.
16. Where the vacancy arises amongst the elected Governors, the Council of Governors must hold a by-election within three months to fill the seat until the next ordinary election unless the next ordinary election is due to be held within the period of twelve months commencing with the date on which the vacancy arises, in which case they shall leave the seat vacant until the next ordinary election.
17. The validity of any decision of the Council of Governors or other act of the trust shall not be affected by any vacancy among the governors or by any defect in the appointment of any governor.

### **Declaration**

18. An elected Governor may not vote at a meeting of the Council of Governors unless, before attending the meeting, they have made a declaration in the form specified by the Trust Secretary of the particulars of their qualification to vote as a member of the trust and that they are not prevented from being a member of the Council of Governors.

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

### 1. INTRODUCTION

- 1.1. The Yorkshire Ambulance Service NHS Foundation Trust ("the Trust") is a public benefit corporation following authorisation by the Independent Regulator of NHS Foundation Trusts ("Monitor") pursuant to the National Health Service Act 2006 (the "2006 Act").
- 1.2. The Trust is governed by the Regulatory Framework. The functions of the Trust are conferred by 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 and to adhere at all times to the Code of Conduct for Governors.
- 1.3. For the sake of clarity the role of the Board of Directors is to manage the Trust and exercise the Trust's powers. The role of the Council of Governors is to hold the Trust's Non-Executive Directors individually and collectively to account for the performance of the Board of Directors, and to represent the interests of the members of the Trust as a whole and the interest of the public.

### 2. DEFINITIONS

- 2.1. In these Standing Orders:

"**Board of Directors**" means the Board of Directors of the Trust as constituted in accordance with the Constitution;

"**Chairman**" means the Chairman of the Council of Governors appointed in accordance with the Constitution to ensure that the Council of Governors and the Board of Directors successfully discharge their overall responsibilities for the Trust as a whole;

"**Chief Executive**" means the Chief Executive of the Trust;

"**Clear Day**" means a day of the week not including Saturday, Sunday or a public holiday;

"**Constitution**" means the Constitution of the Trust;

"**Deputy Chairman**" means one of the Non Executive Directors appointed by the Council of Governors, either generally or for a specific meeting, to preside at a meeting of the Council of Governors in the absence of the Chairman;

"**Governor**" means a member of the Council of Governors elected or appointed as provided by the Constitution;

"**Council of Governors**" means the Council of Governors as constituted in accordance with the Constitution which has the same meaning as the Board of Governors in the 2006 Act;

"**Non-Executive Director**" means a Director, including the Chairman, who does not hold an executive office of the Trust;

**"Executive"** means a person holding an office with responsibility for managing or performing the functions of the Trust;

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

**"Regulatory Framework"** means the 2006 Act and the Trust's Terms of Authorisation (including its constitution) granted by Monitor;

**"Trust Secretary"** means a person appointed by the Trust in accordance with the Constitution to be the Trust Secretary to act independently of the Council of Governors to provide advice on corporate governance issues to the Board of Directors and the Chairman and monitor the Trust's compliance with the Regulatory Framework and these Standing Orders.

- 2.2. Words importing the masculine gender include the feminine gender and words importing the singular include the plural, and vice versa.

### **3. THE COUNCIL OF GOVERNORS**

- 3.1. The roles and responsibilities of the Governors are set out in the Constitution and also have effect as if incorporated into the Standing Orders.
- 3.2. In the performance of their roles and responsibilities, the Governors shall have regard to The NHS Foundation Trust Code of Governance published by Monitor as revised or superseded from time to time.

### **4. MEETINGS OF THE COUNCIL OF GOVERNORS**

#### **4.1. Admission of the Public**

4.1.1. The public and representatives of the Press shall be afforded facilities to attend all formal meetings of the Council of Governors except where it resolves that members of the public and representatives of the Press be excluded from all or part of a meeting on the grounds that:

4.1.1.1 any publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or

4.1.1.2 for other reasons stated in the resolution and arising from the nature of the business or the proceedings that the Council of Governors believes are special reasons for excluding the public from the meeting in accordance with the Constitution.

4.1.2. Nothing in these Standing Orders shall require the Council of Governors to allow members of the public and 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 Council of Governors.

## **4.2. Calling Meetings**

- 4.2.1. Meetings of the Council of Governors shall be held at such times and places as the Council of Governors may determine and there shall be at least four meetings in any year including:
  - 4.2.1.1 an annual meeting in each year apart from the first year, when the Council of Governors are to receive and consider the annual accounts, any report by the Auditor and the annual report; and
  - 4.2.1.2 any other meetings required of the Governors in order to fulfil their functions in accordance with the Constitution.
- 4.2.2. In consultation with the Chairman the Trust Secretary may call a meeting of the Council of Governors at any time.
- 4.2.3. One third or more of the members of the Council of Governors may requisition a meeting in writing to the Trust Secretary. If the Trust Secretary refuses, or fails, to call a meeting within seven days of a requisition being presented, the Governors signing the requisition may forthwith call the meeting.
- 4.2.4. In the case of a meeting called by Governors in default of the Trust Secretary, the notice shall be signed by those Governors and no business shall be transacted at the meeting other than that specified in the requisition.

## **4.3. Notice of Meetings**

- 4.3.1. Before each meeting of the Council of Governors, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the Chairman or by an officer authorised by the Chairman to sign on her/his behalf, shall be delivered to, or sent electronically or by post to the usual place of residence of every Governor, so as to be available to her/him at least five Clear Days before the meeting save in the case of emergencies.
- 4.3.2. Before each meeting of the Council of Governors, a public notice of the time and place of the meeting, and the public part of the agenda, shall, insofar as it is available, be displayed at the Trust's Headquarters at least three Clear Days before the meeting.
- 4.3.3. Want of service of the notice on any Governor shall not affect the validity of a meeting. A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of posting.
- 4.3.4. Agendas will be sent to Governors before the meeting and supporting papers, whenever possible, shall accompany the Agenda, but will certainly be dispatched no later than five Clear Days before the meeting, save in the case of emergencies. Circulation by email is deemed acceptable for those Governors so agreeing.

## **4.4. Annual Meeting**

- 4.4.1. The Council of Governors shall hold an annual meeting of the Council of Governors in every calendar year so that there is no more than fifteen

calendar months between one meeting and the next and shall present to that meeting:

- 4.4.1.1 A report on the proceedings of its meetings held since the last annual meeting;
- 4.4.1.2 A report on the progress since the last annual meeting in developing the membership strategy including the steps taken to ensure that the actual membership is fully representative of the persons who are eligible to be members under the Constitution;
- 4.4.1.3 A report on any change to the Governors which has taken place since the last annual meeting; and
- 4.4.1.4 A report containing such comments as it wishes to make regarding the performance of the Trust and the accounts of the Trust for the preceding financial year and the future service development plans of the Trust.

4.4.2. The reports for the first annual meeting shall cover the period from the Authorisation of the Trust as a Foundation Trust to the date of that meeting.

#### **4.5. Setting the Agenda**

- 4.5.1. The Council of Governors may determine that certain matters shall appear on every Agenda for a meeting and shall be addressed prior to any other business being conducted.
- 4.5.2. A Governor wishing to move a motion shall send a written notice to the Chairman at least fifteen Clear Days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than fifteen Clear Days before a meeting may be included on the agenda at the discretion of the Chairman.

#### **4.6. Petitions**

- 4.6.1. Where a petition signed by not less than 1% of the members of the Trust has been received by the Trust, the Chairman shall include the petition as an item for the agenda of the next Council of Governors meeting.

#### **4.7. Chairman of Meeting**

- 4.7.1. At any Council of Governors meeting, the Chairman, if present, shall preside.
- 4.7.2. If the Chairman is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest the Deputy Chairman shall preside.
- 4.7.3. If the Deputy Chairman is absent from the meeting or is absent temporarily on the grounds of a declared conflict of interest the Senior Independent Director shall preside.

#### **4.8. Agenda Proposals**

- 4.8.1. Where a Governor has requested inclusion of a motion on the agenda in accordance with Standing Order 4.5.2, the provisions of this Standing Order 4.8 shall apply in respect of the motion.
- 4.8.2. The mover of the motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.
- 4.8.3. When a motion is under discussion or immediately prior to discussion it shall be open to a Governor to move:
  - 4.8.3.1 an amendment to the motion;
  - 4.8.3.2 the adjournment of the discussion or the meeting;
  - 4.8.3.3 that the meeting proceed to the next business;
  - 4.8.3.4 the appointment of an ad hoc committee to consider and make recommendations on a specific item of business;
  - 4.8.3.5 that the motion be now put;
  - 4.8.3.6 that a Governor be not further heard;
  - 4.8.3.7 that the public be excluded from the meeting in relation to the discussion concerning the proposition under Standing Order 4.1.1.
- 4.8.4. In the case of sub-paragraphs 4.8.3.3 and 4.8.3.5 above, to ensure objectivity these matters may only be put by a Governor who has not previously taken part in the debate and who is eligible to vote.
- 4.8.5. No amendment to the proposition shall be admitted if, in the opinion of the Chairman of the meeting, the amendment negates the substance of the proposition.
- 4.8.6. The mover of a proposition shall have a maximum of three minutes to move and two minutes to reply. Once a proposition has been moved, no Governor shall speak more than once or for more than two minutes.

#### **4.9. Chairman's Ruling**

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

#### **4.10. Voting**

- 4.10.1. A Governor may not vote at a meeting of the Council of Governors unless at the beginning of her/his tenure or at a time subsequent to that to be agreed by the Trust Secretary, (s)he has made a declaration in the form specified within Schedule A of these Standing Orders, that (s)he is a member of the

constituency which elected her/him and is not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 7 to the 2006 Act or under the Constitution. Where a Governor's circumstances in respect of her/his declaration have changed, (s)he shall make a new declaration in the form specified within Schedule A of these Standing Orders within seven days.

- 4.10.2. Subject to paragraph 4.10.4 below, every question at a meeting shall be determined by a majority of the votes of the Governors present and voting on the question.
- 4.10.3. The Chairman of the meeting shall not ordinarily vote on any question or proposal before the meeting, but in the case of an equality of votes the Chairman shall have a casting vote.
- 4.10.4. A resolution for the removal of the Chairman or a Non-Executive Director shall be passed only if three quarters of the total number of Governors vote in favour of it.
- 4.10.5. All questions put to the vote shall, at the discretion of the Chairman 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.
- 4.10.6. 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.
- 4.10.7. If a Governor so requests, her/his vote shall be recorded by name upon any vote (other than by secret paper ballot).
- 4.10.8. A Governor may only vote if present at the time of the vote on which the question is to be decided; no Governor may vote by proxy.

#### **4.11. Minutes**

- 4.11.1. The minutes of the proceedings of a meeting shall be drawn up by the Trust Secretary and submitted for agreement at the next ensuing meeting where they will be signed by the Chairman presiding at it.
- 4.11.2. No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate. Any amendment to the minutes shall be agreed and recorded at the next meeting.

#### **4.12. Amendment of Standing Orders**

- 4.12.1. These Standing Orders shall be amended only if:
  - 4.12.1.1 a notice of proposal under Standing Order 4.5.2 has been given; and
  - 4.12.1.2 no fewer than half the total number of Governors vote in favour of amendment; and

- 4.12.1.3 at least one half of the total number of Governors is present; and
- 4.12.1.4 the variation proposed has been approved by the Board of Directors and does not contravene a statutory provision.

4.12.2. No amendment to these Standing Orders shall be made without the approval of Monitor first having been obtained in accordance with paragraph 41 of the Constitution.

#### **4.13. Record of Attendance**

4.13.1. The names of the Chairman and Governors present at the meeting shall be recorded in the minutes.

#### **4.14. Quorum**

4.14.1. No business shall be transacted at a meeting unless at least eight Governors are present, including a majority of Governors who are members of the public constituency, at least one Governor who is a member of the staff constituency, and at least one appointed Governor.

4.14.2. If at any meeting there is no quorum present within thirty minutes of the time fixed for the start of the meeting, the meeting shall stand adjourned for six Clear Days and upon reconvening, those present shall constitute a quorum.

4.14.3. If a Governor has been disqualified from participating in the discussion on any matter and/or from other voting on any resolution by reason of the declaration of a conflict of interest as provided in Standing Order 7 (s)he 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.

#### **4.15. Committees**

4.15.1. In consultation with the Chairman and with the Trust Secretary the Council of Governors may appoint committees and sub-committees of the Council of Governors to assist it in the proper performance of its functions under the Constitution and the Regulatory Framework. However, it may not delegate decision-making to a committee or a sub-committee.

4.15.2. These Standing Orders, as far as they are applicable, shall apply with appropriate alteration to meetings of any committees established by the Council of Governors. Where they apply to a committee or sub-committee, "Chairman" means the Chairman of the committee or sub-committee (as the case may be), and "Governor" means a member of the committee or the sub-committee (as the case may be). The Chairman of a committee or sub-committee shall be a voting member of the committee or sub-committee notwithstanding paragraph 4.10.3.

4.15.3. Each committee shall have such terms of reference and powers and be subject to such conditions as the Council of Governors shall decide and shall be in accordance with the Regulatory Framework. Such terms of reference



shall have effect as if incorporated into the Standing Orders. The Council of Governors shall not delegate to any committee any of the powers or responsibilities which are to be exercised by the Council of Governors at a formal meeting.

4.15.4. Any committee established under this Standing Order may call upon outside advisers to assist them with their tasks, subject to the advance agreement of the Board of Directors in respect of any expenses thereby incurred.

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

4.15.6. The Council of Governors may, if so invited by the Board of Directors, appoint members to serve on joint committees with the Board of Directors or committees of the Board of Directors.

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

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

The Regulatory Framework and the Constitution require each Governor to declare to the Trust Secretary interests which are relevant and material.

### **5.2. Interests which are relevant and material**

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

- 5.2.1.1 directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies); or
- 5.2.1.2 ownership, part-ownership or directorship of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS; or
- 5.2.1.3 majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS; or
- 5.2.1.4 a position of authority in a charity or voluntary organisation in the field of health and social care; or
- 5.2.1.5 any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services; or
- 5.2.1.6 research funding/grants that may be received by an individual or their department; or
- 5.2.1.7 any connection with an organisation, entity or company considering entering into or having entered into a financial agreement with the Trust, including but not limited to, lenders or banks; or
- 5.2.1.8 interests in pooled funds that are under separate agreement.

5.2.2. Any member of the Council of Governors who comes to know that the Trust has entered into or proposes to enter into a contract in which (s)he or anyone connected with her/him has a pecuniary interest, direct or indirect, the Governor shall declare her/his interest by giving notice in writing of such fact to the Trust as soon as practicable.

5.2.3. If Governors have any doubt about the relevance of an interest, this should be discussed with the Chairman or with the Trust Secretary.

### **5.3. Disclosure of Governors' Interests**

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

### **5.4. Register of Governors' Interests**

5.4.1. The Trust Secretary shall keep a Register of Interests of Governors, which shall contain the names of each Governor, whether (s)he has declared any interest, and if so, the interest declared.

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

### **5.5. Exclusion from proceedings on account of pecuniary interest**

5.5.1. Definition of terms used in interpreting 'Pecuniary' interest  
For the sake of clarity, the following definition of terms is to be used in interpreting this Standing Order:

5.5.1.1 "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);

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

5.5.1.3 "Pecuniary interest"

Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-

- a) he, or a nominee of his, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
- b) he is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

#### 5.5.1.4 Exception to Pecuniary interests

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

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

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

#### 5.5.2. Exclusion in proceedings of the Council of Governors

5.5.2.1 Subject to the following provisions of this Standing Order, if the Chair or a Governor has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council of Governors at which the contract or other matter is the subject of consideration, (s)he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

5.5.2.2 The Council of Governors may exclude the Chair or Governor from a meeting of the Board while any contract, proposed contract or other matter in which (s)he has a pecuniary interest is under consideration.

5.5.2.3 This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Council of Governors and applies to a member of any such committee or sub-committee (whether or not (s)he is also a Governor) as it applies to Governors.

### 5.6. Register of Governors

The Register of Governors shall list the names of Governors, their category of membership of the Council of governors and an address through which they may be contacted by the Trust Secretary.

## **6. STANDARDS OF BUSINESS CONDUCT**

- 6.1. Members of the Council of Governors shall comply with the Governors' Code of Conduct.

## **7. APPOINTMENTS AND RECOMMENDATIONS**

- 7.1. A Governor 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 Governor from giving written testimonial of a candidate's ability, experience or character for submission to the Trust in relation to any appointment.
- 7.2. The Chairman and every Governor shall disclose to the Trust Secretary any relationship between himself and a candidate for appointment as a Director of the Trust of whose candidature that Governor is aware. It shall be the duty of the Trust Secretary to report any such disclosure to the Council of Governors.
- 7.3. On appointment, a Governor shall disclose to the Council of Governors any relationship to another Governor or to a holder of any office in the Trust.

## **8. SENIOR INDEPENDENT DIRECTOR**

- 8.1. The Council of Governors is entitled to be consulted by the Board of Directors on the appointment of the Trust's Senior Independent Director.
- 8.2. The role of the Senior Independent Director is as set out in writing by the Board of Directors and amended, from time to time, by resolution of the Board of Directors.

## **9. MISCELLANEOUS**

- 9.1. The Trust Secretary shall provide a copy of these Standing Orders to each Governor and endeavour to ensure that each Governor understands her/his responsibilities within these Standing Orders.
- 9.2. These Standing Orders including all documents having effect as if incorporated in them, shall be reviewed annually by the Board of Directors and the Council of Governors.
- 9.3. 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 of Governors for action or ratification. All Governors have a duty to disclose any non-compliance with these Standing Orders to the Chairman as soon as possible.

## SCHEDULE A

### **Declaration to the Trust Secretary of Yorkshire Ambulance Service NHS Foundation Trust**

I hereby declare that I am at the date of this declaration:

- a) a member of the [Public/Staff] Constituency, and
- b) I am not prevented from being a member of the Council of Governors by reason of any provisions of paragraph 8 of Schedule 7 to the 2006 Act or the Constitution.

Signed:

Date

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

## INTRODUCTION

### Statutory Framework

The Yorkshire Ambulance Services NHS Foundation Trust (the Trust) is a public benefit corporation authorised by Monitor of NHS Foundation Trusts under the National Health Service Act 2006.

NHS Foundation Trusts are governed by the Regulatory Framework.

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

The Constitution requires the Board of Directors to adopt Standing Orders (SOs) for the regulation of its proceedings and business.

The Trust has also adopted Standing Financial Instructions, which are to be read in conjunction with these Standing Orders.

### 1. INTERPRETATION

- 1.1. At any meeting, the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which (s)he should be advised by the Chief Executive and Trust Secretary).
- 1.2. Any expression to which a meaning is given in the National Health Service Act 2006 or in a Regulation or Order made under that Act shall have the same meaning in this interpretation and in addition:
  - 1.2.1. "**Accounting Officer**" means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
  - 1.2.2. "**Trust**" means Yorkshire Ambulance Service NHS Foundation Trust.
  - 1.2.3. "**Board**" means the Board of Directors.
  - 1.2.4. "**Budget**" means 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.
  - 1.2.5. "**Budget holder**" means the Director or employee with delegated authority to manage finances (Income and Expenditure) for a specific area of the organisation.
  - 1.2.6. "**Chairman of the Board (or Trust)**" 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 Chairman of the Trust" shall be deemed to include the Deputy Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.

- 1.2.7. "**Chief Executive**" means the chief officer of the Trust.
- 1.2.8. "**Clear Days**" means a day of the week not including Saturday, Sunday or a public holiday.
- 1.2.9. "**Commissioning**" means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.
- 1.2.10. "**Committee**" means a committee or sub-committee created and appointed by the Board.
- 1.2.11. "**Committee members**" means persons formally appointed by the Board to sit on or to chair specific committees.
- 1.2.12. "**Contracting and procuring**" means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 1.2.13. "**Council of Governors**" means the Council of Governors of the Trust as constituted by the Constitution.
- 1.2.14. "**Director**" means a member of the Board of Directors of the Trust, appointed in accordance with the Constitution.
- 1.2.15. "**Director of Finance**" means the Chief Financial Officer of the Trust.
- 1.2.16. "**Executive Director**" means a Director with responsibility for managing or performing the functions of the Trust.
- 1.2.17. "**Funds held on trust**" shall mean those funds, which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept. Such funds may or may not be charitable.
- 1.2.18. "**Monitor**" means the Independent Regulator of NHS Foundation Trusts.
- 1.2.19. "**Nominated officer**" means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.
- 1.2.20. "**Non-Executive Director**" means a Director, including the Chairman, who does not hold an executive office at the Trust.
- 1.2.21. "**Officer**" means a person who holds a managerial position in the Trust.

1.2.22. "**Regulatory Framework**" means the National Health Service Act 2006 and the Trust's Terms of Authorisation (including the Constitution) granted by Monitor.

1.2.23. "**Trust Secretary**" means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the law, Standing Orders, and the Regulatory Framework.

1.2.24. "**SFIs**" means Standing Financial Instructions.

1.2.25. "**SOs**" means Standing Orders.

1.2.26. "**Staff**" means the employees of the Trust.

1.2.27. "**Deputy Chairman**" means the Non-Executive Director appointed by the Council of Governors to take on the Chairman's duties if the Chairman is absent for any reason.

## **2. THE TRUST**

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

2.2. 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.

2.3. The Trust has resolved that certain powers and decisions may only be exercised or made by the Trust in formal session. These powers and decisions are set out in Schedule of Matters Reserved to the Board to which the Board shall have regard.

2.4. **The composition of the Board** shall be in accordance with the Constitution.

2.5. **Appointment of the Chairman and Directors** shall be in accordance with the Constitution.

2.6. **Terms of Office of the Chairman and Directors.** The Chairman and Non-Executive Directors are to be appointed for a period of office in accordance with the Constitution.

2.7. **Appointment of the Deputy Chairman.** For the purpose of enabling the proceedings of the trust to be conducted in the absence of the Chairman, the Council of Governors may appoint a Non-Executive Director to be the Deputy Chairman for such period, not exceeding the remainder of her/his terms as Non-Executive Director of the Trust, as they may specify on appointing her/him. If the Chairman is unable to discharge her/his office as Chairman of the Trust, the Deputy Chairman of the Board of Directors shall be the acting Chairman for the Trust.

2.8. Any Non-Executive Director so elected may at any time resign from the office of Deputy Chairman by giving notice in writing to the Chairman. The Council of Governors may thereupon appoint another Non-Executive Director as Deputy Chairman in accordance with paragraph 2.7 above.



- 2.9. **Powers of the Deputy Chairman.** Where the Chairman of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as Chairman owing to illness or any other cause, the Deputy Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes their duties, as the case may be. References to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform those duties, be taken to include references to the Deputy Chairman.
- 2.10. **Appointment and Powers of the Senior Independent Director.** Subject to Standing Order 2.11 below, the Board of Directors may in consultation with the Council of Governors appoint a Non-Executive Director to be the Senior Independent Director for such period, not exceeding the remainder of her/his term as a Member of the Board of Directors, as they may specify on appointing her/him. The Senior Independent Director shall perform the role set out in writing by the Board of Directors and amended, from time to time, by resolution of the Board of Directors.
- 2.11. Any Member of the Board of Directors so appointed may at any time resign from the office of Senior Independent Director by giving notice in writing to the Chairman. The Board of Directors may thereupon, in consultation with the Council of Governors, appoint another Non-Executive Director as Senior Independent Director in accordance with the provisions of Standing Order 2.10 above.

### **3. MEETINGS OF THE TRUST**

#### **3.1. Calling Meetings**

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

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

- 3.2.1. Before each meeting of the Board a formal written notice of the time and place of the meeting shall be given to every Director, or sent electronically or by post to the usual place of residence of each Director, so as to be delivered at least five Clear Days before the meeting. The notice shall be approved by the Chairman or by an officer authorised by the Chairman to approve it on her/his behalf. A notice shall be presumed to have been delivered one day after sending.
- 3.2.2. The agenda shall be sent to Directors at least five Clear Days before the meeting (either in hard copy or electronically) and supporting papers shall accompany the agenda, save in emergency. Want of delivery of the agenda or papers to any Director shall not affect the validity of a meeting.

- 3.2.3. In the case of a meeting called by Directors in default of the Chairman calling the meeting, the notice shall be signed by those Directors.
- 3.2.4. No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.4.
- 3.2.5. A Director desiring a matter to be included on an agenda shall make her/his request in writing to the Chairman at least fifteen Clear Days before the meeting. Requests made less than fifteen Clear Days before a meeting may be included on the agenda at the discretion of the Chairman.

### **3.3. Notice of Motion**

- 3.3.1. Subject to the provision of Standing Orders 3.5 'Motions: Procedure at and during a meeting' and 3.6 'Motions to Rescind a Resolution', a Director wishing to move a motion shall send a written notice to the Trust Secretary who will ensure that it is brought to the immediate attention of the Chairman.
- 3.3.2. The notice shall be delivered at least five Clear Days before the meeting. The Trust Secretary shall include in the agenda for the meeting all notices so received that are in order and permissible under appropriate regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### **3.4. Emergency Motions**

- 3.4.1. Subject to the agreement of the Chairman, and subject also to the provision of Standing Order 3.5 'Motions: Procedure at and during a Meeting', 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 Chairman's decision to include the item shall be final.

### **3.5. Motions: Procedure at and during a Meeting**

#### **3.5.1. Who may Propose**

- (i) A motion may be proposed by the Chairman of the meeting or any Director present. It must also be seconded by another Director.

#### **3.5.2. Contents of Motions**

- (i) The Chairman may exclude from the debate at her/his discretion any such motion of which notice was not given on the notice summoning the meeting other than a motion relating to:
  - (A) the reception of a report;
  - (B) consideration of any item of business before the Board;

- (C) the accuracy of minutes;
- (D) that the Board proceed to next business;
- (E) that the Board adjourn;
- (F) that the question be now put.

### 3.5.3. Amendments to Motions

- (i) A motion for amendment shall not be discussed unless it has been proposed and seconded.
- (ii) Amendments to motions shall be moved relevant to the motion, and shall not have the effect of negating the motion before the Board.
- (iii) If there are several amendments, they shall be considered one at a time. When a motion has been amended, the amended motion shall become the substantive motion before the meeting, upon which any further amendment may be moved.

### 3.5.4. Rights of Reply to Motions

- (i) 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.

- (ii) Substantive/Original Motion

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

- (iii) Withdrawing a Motion

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

- (iv) Motions once under Debate

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

- (A) an amendment to the motion;
- (B) the adjournment of the discussion, or the meeting;
- (C) that the meeting proceed to the next business;
- (D) that the question should be now put;

- (E) the appointment of an 'ad hoc' committee to deal with a specific item of business;
- (F) that a member be not further heard;
- (G) a motion resolving to exclude the public, including the press.

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

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

### **3.6. Motion to Rescind a Resolution**

3.6.1. Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the Director who gives it and also the signature of three other Directors, and before considering any such motion of which notice shall have been given, the Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.

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

### **3.7. Chairman of Meeting**

3.7.1. At any meeting of the Board, the Chairman, if present, shall preside. If the Chairman is absent from the meeting, the Deputy Chairman (if the Board has appointed one), if present, shall preside.

3.7.2. if the Chairman and Deputy Chairman are absent, such Non-Executive Director as the Directors present shall choose shall preside.

### **3.8. Chairman's Ruling**

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

### **3.9. Quorum**

3.9.1. No business shall be transacted at a meeting of the Board unless at least one third of the whole number of the Chairman and Directors of the Board

(including at least one Executive Director and one Non-Executive Director) is present.

- 3.9.2. An officer in attendance for an Executive Director may not count towards the quorum unless (s)he is entitled to vote under paragraph 9 of Annex 9 of the Trust's Constitution by reason of the Executive Director's absence.
- 3.9.3. If the Chairman or another Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see SO 7.9.2) that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.

### **3.10. Voting**

- 3.10.1. Save as provided in Standing Orders 3.11 - Waiver of Standing Orders and 3.12 - Variation and Amendment of Standing Orders, every question put to a vote at a meeting shall be determined by a majority of the votes of Directors present and voting on the question. In the case of an equal vote, the person presiding (i.e.: the chairman of the meeting) shall have a second, and casting vote.
- 3.10.2. At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by secret paper ballot.
- 3.10.3. If at least one third of the Directors present so request, the voting on any question may be recorded so as to show how each Director present voted or did not vote (except when conducted by secret paper ballot).
- 3.10.4. If a Director so requests, her/his vote shall be recorded by name.
- 3.10.5. In no circumstances may an absent Director vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.10.6. An officer 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, under paragraph 9 or paragraph 13 of Annex 9 of the Trust's Constitution, shall be an Executive Director and thus entitled to exercise the voting rights of an Executive Director.
- 3.10.7. An officer attending the Board meeting to represent an Executive Director during a period of incapacity or temporary absence or for any other reason may not exercise the voting rights of the Executive Director, but (s)he may vote in her/his own right if (s)he is formally acting up under paragraph 9 or paragraph 13 of Annex 9 of the Trust's Constitution. An officer's status when attending a meeting shall be recorded in the minutes.

### **3.11. Waiver of Standing Orders**

3.11.1. Except where this would contravene any statutory provision or the rules relating to the Quorum (SO 3.9), any one or more of the Standing Orders may be waived at any meeting, provided that at least two-thirds of the whole number of the Directors are present (including at least one Executive Director and one Non-Executive) and that a majority of those Directors present signify their agreement to such waiver. The reason for the waiver shall be recorded in the Board's minutes.

### **3.12. Variation and Amendment of Standing Orders**

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

- 3.12.1. upon a notice of motion under SO 3.3;
- 3.12.2. upon a recommendation of the Chairman or Chief Executive; included on the agenda for the meeting;
- 3.12.3. that two thirds of the Directors of the Board are present at the meeting where the variation or amendment is being discussed, and that at least half of the Non-Executive Directors vote in favour of the amendment;
- 3.12.4. provided that any variation or amendment does not contravene a statutory provision or direction made by Monitor;
- 3.12.5. the variation or amendment is approved by the Council of Governors; and
- 3.12.6. the variation or amendment is approved by Monitor.

### **3.13. Record of Attendance**

3.13.1. The names of the Chairman and other Directors present at the meeting shall be recorded.

### **3.14. Minutes**

- 3.14.1. The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting where they shall be signed by the person presiding at it.
- 3.14.2. No discussion shall take place upon the minutes except upon their accuracy or where the Chairman considers discussion appropriate.

### **3.15. Admission of Public and the Press**

3.15.1. Admission and exclusion on grounds of confidentiality of business to be transacted.

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

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

### 3.15.2. General Disturbances

The Chairman (or Deputy Chairman if one has been appointed) or the person presiding over the meeting shall give such directions as (s)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 Trust's business shall be conducted without interruption and disruption and, without prejudice to the power to exclude on grounds of the confidential nature of the business to be transacted, the public will be required to withdraw upon the 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'.

### 3.15.3. 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 3.15.1 and 3.15.2 above, shall be confidential to the Board. Directors and officers or any employee of the Trust in attendance 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 Board meeting which may take place on such reports or papers.

### 3.15.4. Use of Mechanical or Electrical Equipment for Recording or Transmission of Meetings

Nothing in these Standing Orders shall be construed as permitting the introduction by the public, or press representatives, of recording, transmitting, video or similar apparatus into meetings of the Board or any committee or sub-committee of the Board. Such permission shall be granted only by resolution of the Board.

## 3.16. Observers at Trust meetings

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

## **4. APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES**

### **4.1. Appointment of Committees**

- 4.1.1. Subject to the Constitution and such directions as may be given by Monitor, the Board may appoint committees of the Trust.
- 4.1.2. The Trust shall determine the membership and terms of reference of committees and sub-committees and shall if it requires to, receive and consider reports of such committees.
- 4.1.3. Unless otherwise required or permitted by Monitor, only Directors may be members of the Board's committees and sub-committees.

### **4.2. Applicability of Standing Orders to Committees**

- 4.2.1. These Standing Orders, as far as they are applicable, shall apply to meetings of any committees established by the Board, and in such meetings the term "Chairman" is to be read as a reference to the chairman of the committee as the context permits.

### **4.3. Terms of Reference**

- 4.3.1. Each such committee shall have such terms of reference and powers and be subject to such conditions (as to reporting back to the Board), as the Board shall decide. Such terms of reference shall have effect as if incorporated into the Standing Orders.

### **4.4. Delegation of Powers by Committees to Sub-Committees**

- 4.4.1. Where committees are authorised to establish sub-committees they may not delegate executive powers to the sub-committee unless expressly authorised by the Board.

### **4.5. Approval of Appointments to Committees**

- 4.5.1. The Board shall approve the appointments to each of the committees which it has formally constituted.

### **4.6. Committees Established by the Board**

- 4.6.1. The Board may establish such committees as it sees fit to discharge the Trust's responsibilities.

## **5. ARRANGEMENTS FOR THE EXERCISE OF FUNCTIONS BY DELEGATION**

- 5.1. Subject to such guidance as may be issued by Monitor, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee of Directors appointed by virtue of Standing Order 4, or by an Executive Director of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit.



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

- 5.2.1. The powers which the Board has reserved to itself within these Standing Orders may in emergency or for an urgent decision be exercised by a committee consisting of the Chief Executive and the Chairman after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the Board.

## **5.3. Delegation to Committees**

- 5.3.1. The Board shall agree from time to time to the delegation of executive powers to be exercised by a committee of Directors which it has formally constituted. The constitution and terms of reference of these committees and their specific executive powers shall be approved by the Board.
- 5.3.2. When the Board is meeting other than as the Trust in public session, it shall operate as a committee and may only exercise such powers as may have been delegated to it by the Board in public session.

## **5.4. Delegation to Officers**

- 5.4.1. Those functions which have not been reserved to the Board or delegated to a committee of Directors or a specified Executive Director shall be exercised on behalf of the Board by the Chief Executive. The Chief Executive shall determine which functions (s)he will perform personally and shall nominate officers to undertake the remaining functions for which (s)he will still retain accountability to the Board.
- 5.4.2. The Chief Executive shall prepare a Scheme of Delegation identifying her/his proposals for the delegation of powers not reserved to the Board, which shall be considered and approved by the Board. The Chief Executive may periodically propose amendment to the Scheme of Delegation which shall be considered and approved by the Board.
- 5.4.3. Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Director of Finance to provide information and advise the Board in accordance with any statutory requirements. Outside these statutory requirements, the role of the Director of Finance shall be accountable to the Chief Executive for operational matters.

## **5.5. Schedule of Matters Reserved to the Board**

- 5.5.1. The Board shall have regard to the arrangements made by the Board as set out in the Schedule of Matters Reserved to the Board.

## **5.6. Duty to Report Non-Compliance with the Standing Orders**

- 5.6.1. If for any reason these Standing Orders are not complied with, save where Standing Orders have been waived under these Standing Orders, 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 Directors and staff

have a duty to disclose any non-compliance with these Standing Orders to the Chief Executive and the Trust Secretary as soon as possible.

## **6. THE BOARD OF DIRECTORS AND THE COUNCIL OF GOVERNORS**

- 6.1. The Board of Directors will co-operate with the Council of Governors as far as possible in order to comply with the Regulatory Framework in all aspects and in particular in relation to the following matters which are set out specifically within the Constitution.
- 6.2. The Directors, having regard to the views of the Council of Governors, are to prepare the information as to the Trust's forward planning in respect of each financial year to be given to Monitor.
- 6.3. The Directors are to present to the Council of Governors at a general meeting the annual accounts, any report of the Auditor on them, and the annual report.
- 6.4. The annual reports are to give:
  - 6.4.1. information on any steps taken by the Trust to secure that (taken as a whole) the actual membership of its public constituency is representative of those eligible for such membership, and
  - 6.4.2. any other information required by Monitor.

## **7. DECLARATION OF INTERESTS AND REGISTER OF INTERESTS**

### **7.1. Declaration of Interests**

- 7.1.1. The Regulatory Framework requires Directors to declare interests, which are relevant and material to the foundation trust of which (s)he is a Director. All existing Directors should declare such interests. Any Directors appointed subsequently should do so on appointment.

### **7.2. Interests which should be regarded as relevant and material are:**

- 7.2.1. Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
- 7.2.2. Ownership, part-ownership or directorships of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- 7.2.3. Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- 7.2.4. A position of authority in a charity or voluntary organisation in the field of health and social care;
- 7.2.5. Any connection with a voluntary or other organisation contracting for NHS services;
- 7.2.6. Research funding/grants that may be received by an individual or their department;

7.2.7. Any connection with an organisation, entity or company considering entering into a financial arrangement with the Trust, including but not limited to, lenders or banks; or

7.2.8. Interests in pooled funds that are under separate management.

7.3. A Director who comes to know that the Trust has entered into or proposes to enter into a contract in which (s)he or any person connected with her/him (as defined in Standing Order 8.5 below and elsewhere) has any pecuniary interest, direct or indirect, shall declare her/his interest by giving notice in writing of such fact as soon as practicable.

#### **7.4. Advice on Interests**

7.4.1. If Directors have any doubt about the relevance of an interest, this should be discussed with the Chairman of the Trust or with the Trust Secretary.

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

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

7.5.1. At the time Directors' interests are declared, they should be recorded in the Board minutes.

7.5.2. Any changes in interests should be declared at the next Board meeting following the change occurring and recorded in the minutes of that meeting.

#### **7.6. Publication of Declared Interests in the Annual Report**

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

#### **7.7. Conflicts of Interest which arise during the Course of a Meeting**

7.7.1. 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. (See overlap with SO 7.3)

#### **7.8. Register of Interests**

7.8.1. In accordance with the constitution, the Trust Secretary will ensure that a Register of Interests is established to record formally declarations of interests of Directors. In particular the Register will include details of all directorships and other relevant and material interests (as defined in SO

7.2) which have been declared by both Executive and Non-Executive Directors.

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

7.8.3. The Register will be available to the public and the Trust Secretary will take reasonable steps to bring the existence of the Register to the attention of local residents and to publicise arrangements for viewing it.

## **7.9. Exclusion of Chairman and Directors in proceedings on account of Pecuniary Interest**

### **7.9.1. Definition of terms used in interpreting 'Pecuniary' Interest**

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

(A) "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);

(B) "contract" shall include any proposed contract or other course of dealing.

(C) "pecuniary interest"

Subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:

1) (s)he, or a nominee of her/his, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or

2) (s)he is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

(D) Exception to Pecuniary Interests

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

1) neither (s)he or any person connected with her/him has any beneficial interest in the securities of a company of which (s)he or such person appears as a member, or

- 2) any interest that (s)he or any person connected with her/him may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence her/him in relation to considering or voting on that contract, or
- 3) those securities of any company in which (s)he (or any person connected with her/him) has a beneficial interest do not exceed £5,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.

Provided however, that where paragraph 3) above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 8.2.2.

#### **7.9.2. Exclusion in Proceedings of the Board**

- (i) Subject to the following provisions of this Standing Order, if the Chairman or another Director has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, they shall, at the meeting and as soon as practicable after its commencement, disclose the fact and shall not take part in the consideration or discussion of the contract or other matter, or vote on any question with respect to it.
- (ii) The Board may exclude the Chairman or another Director from a meeting of the Board while any contract, proposed contract or other matter in which (s)he has a pecuniary interest is under consideration.
- (iii) Any remuneration, compensation or allowance payable to the Chairman or another Director by virtue of paragraph 18 of Schedule 7 to the 2006 Act shall not be treated as a pecuniary interest for the purpose of this Standing Order.

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

### **8.1. Policy**

- 8.1.1. Directors and officers shall comply with the Trust's Code of Conduct and the national guidance contained in the 'Code of Conduct Code of Accountability' (1994) and the 'Code of Conduct for NHS Managers 2002'.

### **8.2. Interest of Directors and Employees in Contracts**

- 8.2.1. Any Director or officer of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which (s)he or any person connected with her/him (as defined in SO 8.5) has any pecuniary interest, direct or indirect, the individual shall declare their interest by giving notice in writing of such fact to the Chief Executive or Trust Secretary as soon as practicable.

- 8.2.2. A Director or officer should also declare to the Chief Executive any other employment or business or other relationship of her/his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.
- 8.2.3. The Trust will require interests, employment or relationships so declared by Directors to be entered in the register of Directors' interests.

### **8.3. Canvassing of and Recommendations by Directors in Relation to Appointments**

- 8.3.1. Canvassing of Directors or members of any Committee of the Board directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Order shall be included in application forms or otherwise brought to the attention of candidates.
- 8.3.2. A Director 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, in relation to any appointment

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

- 8.4.1. Candidates for any staff appointment under the Trust shall, when making an application, disclose in writing to the Trust whether they are related to any member or the holder of any office under the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render her/him liable to instant dismissal.
- 8.4.2. The Chair and every Director of the Board shall disclose to the Board any relationship between her/himself and a candidate for an appointment under the Trust of whose candidature that Director is aware. It shall be the duty of the Chief Executive to report to the Board any such disclosure made.
- 8.4.3. A Director on appointment (and prior to acceptance of an appointment in the case of an Executive Director) shall disclose to the Board any relationship to another Director or to a holder of any office in the Trust.

### **8.5. Persons Connected with Directors**

- 8.5.1. For the purposes of these Standing Orders, a person is connected with a Director if (s)he is:
- (i) a cohabiting spouse, civil partner or common law husband or wife ("life partner") of the Director; or
  - (ii) a cohabiting child, adopted or step-child or any other cohabiting relative of the Director or her/his life partner.

## **9. CUSTODY OF SEAL, SEALING OF DOCUMENTS AND SIGNATURE OF DOCUMENTS**

### **9.1. Custody of Seal**

9.1.1. The common seal of the Trust shall be kept by the Trust Secretary in a secure place.

### **9.2. Sealing of Documents**

9.2.1. Where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of the Chief Executive and one other Executive Director or two Executive Directors duly authorised by the Chief Executive, and not also from the originating department, and shall be attested by them.

### **9.3. Register of Sealing**

9.3.1. The Trust Secretary shall keep a register in which (s)he, or another manager of the trust authorised by her/him, shall enter a record of the sealing of every document.

### **9.4. Signature of documents**

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

9.4.2. In land transactions, the signing of certain supporting documents will be delegated to officers 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).

## **10. REVIEW OF STANDING ORDERS**

10.1. Standing Orders shall be reviewed annually by the Trust. The requirement for review extends to all documents having effect as if incorporated into these Standing Orders.

## **11. MISCELLANEOUS**

11.1. It is the duty of the Chief Executive to ensure that existing Directors and officers and all new appointees are notified of and understand their responsibilities within Standing Orders and Standing Financial Instructions. 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 Standing Orders.

## ANNEX 9 – FURTHER PROVISIONS

### Eligibility for Membership

1. An individual may not become a member of the trust if (s)he is under 16 years of age.
2. An individual may not become or continue as a member of the trust if:
  - (a) (s)he has demonstrated aggressive, offensive or violent behaviour (such as verbal assault or abuse, physical assault, violence or harassment) at any NHS hospital, NHS premises (including NHS vehicles) or NHS establishment or against any of the Applicant Trust's or (as the case may be) the Trust's employees, or other persons who exercise functions for the purposes of the Trust, whether or not in circumstances leading to her/his removal or exclusion from any NHS hospital, premises or establishment;
  - (b) (s)he has demonstrated aggressive, offensive or violent behaviour (such as verbal assault or abuse, physical assault, violence or harassment) against any other NHS employer's employees, or other persons who exercise functions for the purposes of another NHS employer, whether or not in circumstances leading to her/his removal or exclusion from any NHS hospital, premises (including NHS vehicles) or establishment;
  - (c) (s)he has made trivial or hoax calls on the trust's or any of its predecessor organisations' services;
  - (d) (s)he has been identified by the trust or any of its predecessor organisations as a vexatious complainant;  
or
  - (e) (s)he has been dismissed by the trust or any of its predecessor organisations (other than for redundancy).
3. In the event of dispute about a person's eligibility for membership of the trust the dispute shall be referred to the Trust Secretary who shall make a determination on the point at issue. If the person is dissatisfied with the decision of the Trust Secretary (s)he may appeal in writing within 14 days of the decision to the Council of Governors, whose decision shall be final.

### Termination of Membership

4. A member shall cease to be a member if:
  - (a) (s)he resigns by notice to the Trust Secretary; or
  - (b) (s)he ceases to be entitled under this Constitution to be a Member of the constituency or class in which (s)he is registered.



5. It is the responsibility of each member to ensure her/his eligibility at all times and not the responsibility of the trust to do so on her/his behalf. A member who becomes aware of her/his ineligibility shall inform the Trust as soon as practicable and that member's name shall thereupon be removed from the register of members and (s)he shall cease to be a member.

### **Expulsion from Membership**

6. A member may be expelled by a resolution approved by not less than two-thirds of the Council of Governors present and voting at a general meeting. The following procedure is to be adopted:

(a) Any member may complain to the Trust Secretary in writing (signed by the complainant) that another member has committed a serious breach of the trust's code of conduct for members; has acted in a manner detrimental to the interests of the trust; or that it is not in the best interests of the trust for her/him to continue as a member.

(b) The Trust Secretary shall report the complaint to the Council of Governors, or to an appropriate sub-committee of the Council of Governors, which shall consider the complaint and, having taken such advice and made such enquiries as it considers appropriate, may:

- (i) dismiss the complaint and take no further action; or
- (ii) instruct the Trust Secretary to write to the member complained of to explain the concerns arising from the complaint but that no further action is being taken; or
- (iii) temporarily suspend the membership rights of the member complained of, and arrange for a resolution to expel the member complained of to be considered at the next general meeting of the Council of Governors.

(c) If a resolution to expel a member is to be considered at a general meeting of the Council of Governors, details of the complaint shall 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.

(d) At the meeting the Council of Governors shall consider evidence in support of the complaint and such evidence as the member complained of may wish to place before them.

(e) If the member complained of fails to attend the meeting without due cause the meeting may proceed in her/his absence.

(f) The member complained of shall cease to be a member upon the declaration of the Chairman of the meeting that the resolution to expel the Member is carried.

g) If the resolution to expel the member is not carried, the membership rights of the member shall be restored with immediate effect.

7. No person who has been expelled from membership shall be re-admitted except by a resolution carried by the votes of two-thirds of the Council of Governors present and voting at a meeting of the Council of Governors.

### **'Director'**

8. The Trust may confer on a senior officer the title 'Director' as an indication of her/his corporate responsibility within the Trust and not in one of the roles prescribed in paragraph 20 of the Constitution. Such an officer shall not be a director of the Trust within the meaning of the 2006 Act or for the purposes of this Constitution.

### **Absent Directors**

9. If:
  - (a) an Executive Director is temporarily unable to perform her/his duties owing to illness or some other reason for absence, and
  - (b) the Board of Directors agrees that it is inappropriate to terminate the absent director's term of office and appoint a replacement director, and
  - (c) the Board of Directors agree that the duties of the absent director need to be carried out;then the Chairman (if the absent director is the Chief Executive) or the Chief Executive (in any other case) may appoint an acting director as an additional director to carry out the absent director's duties temporarily.
10. The acting director shall be an Executive Director for the purposes of the 2006 Act. (S)he shall be responsible for her/his own acts and defaults and shall not be deemed to be the agent of the absent director.
11. For any period in which an acting director holds office, having been appointed under paragraph 9 of this Annex, the absent director shall not exercise the duties and powers of an Executive Director.
12. The acting director shall vacate office as soon as the absent director returns to office or, if earlier, the date on which the person entitled to appoint her/him under paragraph 9 notifies her/him that (s)he is no longer to act as an acting director.

## **Vacant Positions**

13. If:
  - (a) an Executive Director post is vacant, and
  - (b) the Board of Directors agrees that the vacant position needs to be filled by an interim postholder pending appointment of a permanent postholder;then a committee comprising the Chairman and the Non-Executive Directors (if the vacant position is Chief Executive) and the Chief Executive (in any other case) may appoint another person as an interim director to fill the vacant position pending appointment of a permanent postholder.
14. The interim director shall be an Executive Director for the purposes of the 2006 Act.
15. The interim director shall vacate office on the appointment of a permanent post holder or, if earlier, the date on which the Chairman (in the case of an interim Chief Executive) or the Chief Executive (in any other case) notifies her/him that (s)he is no longer to act as an interim director.

## **Suspension**

16. A Director who has been suspended may not attend meetings of the Board of Directors until the suspension is lifted. If, notwithstanding this paragraph, a suspended Director does attend a meeting of the Board of Directors, he shall not be counted in the quorum and may not speak or vote.

## **Indemnity**

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

## **Trust Secretary**

19. The trust shall have a Trust Secretary, whose function shall be to ensure compliance with proper corporate governance procedures and to support and advise the Board of Directors and the Council of Governors. The Trust Secretary may be an employee but shall not be a Governor or a Director.

20. The Trust Secretary is to be appointed and removed by the Chairman and Chief Executive acting jointly.

### **Amendment of the Constitution**

21. Any amendments to this Constitution must be approved by:
- (a) a resolution passed by a majority of those present and voting at a meeting of the Board of Directors;
  - (b) a resolution passed by a majority of those present and voting at a meeting of the Council of Governors; and
  - (c) Monitor.

### **Effect of director vacancies**

22. The validity of any decision taken by the Board of Directors or other act of the trust shall not be affected by any vacancy among the directors or by any defect in the appointment of any director.

### **Dispute resolution**

23. In the event of any dispute in relation to this Constitution that concerns anything other than membership or governorship:
- (a) The dispute shall be referred to the Chairman (or, if the Chairman has a conflict of interest, to the Senior Independent Director or another Director selected by the Board of Directors), who shall make a determination on the point in issue.
  - (b) If the member or complainant (as the case may be) is aggrieved at the decision of the Chairman or other Director (as the case may be), (s)he may appeal in writing within 14 days of the Chairman's decision to the Board of Directors whose decision shall, subject to the provisions set out below, be final.
24. In the event of dispute between the Council of Governors and the Board of Directors:
- (a) In the first instance the Chairman, on the advice of the Trust Secretary, and such other advice as the Chairman may see fit to obtain, shall seek to resolve the dispute.
  - (b) If the Chairman is unable to resolve the dispute, (s)he shall appoint a committee comprising equal numbers of Directors and Governors to consider the circumstances and to make recommendations to the Council of Governors and the Board of Directors with a view to resolving the dispute (the "Special Committee").

(c) If the recommendations (if any) of the Special Committee are unsuccessful in resolving the dispute, or the Special Committee does not make any recommendations, the Chairman may refer the dispute back to the Board of Directors who shall make the final decision.