

**SHEFFIELD TEACHING HOSPITALS NHS FOUNDATION TRUST**

**EXECUTIVE SUMMARY**

**REPORT TO THE COUNCIL OF GOVERNORS**

**HELD ON 17 DECEMBER 2019**

**C**

<b>Subject</b>	Review of Trust Constitution
<b>Supporting TEG Member</b>	Sandi Carman, Assistant Chief Executive
<b>Author</b>	Judith Green, Corporate Governance Manager
<b>Status<sup>1</sup></b>	A*

**PURPOSE OF THE REPORT**

To seek the Council of Governors' approval for amendments to the Trust Constitution as detailed in the report.

**KEY POINTS**

The Board of Directors and the Council of Governors are required to periodically review the Trust's Constitution.

The previous review presented to members of the Council of Governors and the Board of Directors in 2018/19 identified a number of areas that warranted further benchmarking review. A recommendation was agreed to establish a task and finish group to undertake this work during 2019.

A Constitution Review Panel with representation from the Council of Governors and the Chief Executive's Office was convened to provide a forum for consultation with regard to suggested updates to the Trust Constitution. The panel met on three occasions during October and November 2019 to undertake a phased programme of review work focused on areas previously agreed by the Council of Governors and the Board of Directors. This work involved a benchmarking exercise to review content from the Constitutions of other large teaching and research NHS hospital trusts regarded as being our peers<sup>1</sup>.

In parallel to the work of the Constitution Review Panel, the Trust Executive Group (TEG) was asked to review the need for any changes required to the Constitution to reflect the provisions of the Board of Directors.

Recommendations for amendments to the Trust Constitution are detailed in the attached Table A, with corresponding rationale for each marked change outlined.

In summary, amendments comprise of:

- Non-material changes, including changes to nomenclature, paragraph formatting and the addition of points of clarification;
- Amendment of content reflecting the on-going development of our governance arrangements including adopting principles to support business to be transacted by teleconference or videoconference ;
- Enactment of removal of the Standing Orders for the Practice and Procedure of the Board of Directors as an annex to the Trust Constitution, as agreed in February 2017.
- Realignment of documents forming annexes to the Constitution; and
- Bringing arrangements for review in line with the three-year cycle set out within the Trust's Policy for the Development, Approval, Management and Dissemination of Trust Controlled Documents.

Changes to the Constitution require approval by more than half of the members of the Council of Governors and more than half of the members of the Board of Directors voting to approve the amendments.

<sup>1</sup> *Shelford Group Trusts including Cambridge University Hospitals NHS FT, Guys and St Thomas' NHS Trust, Kings College Hospital NHS FT, Oxford University NHS FT, University Hospital Birmingham NHS FT, Manchester University NHS FT, Imperial College Healthcare NHS Trust, Newcastle Upon Tyne NHS FT.*

Following approval by the Council of Governors of version 7.0 of the Constitution, this will be presented to the Board of Directors in January 2020 for its approval.

## IMPLICATIONS<sup>2</sup>

AIM OF THE STHFT CORPORATE STRATEGY 2017-2020		TICK AS APPROPRIATE
1	Deliver the Best Clinical Outcomes	✓
2	Provide Patient Centred Services	✓
3	Employ Caring and Cared for Staff	✓
4	Spend Public Money Wisely	✓
5	Deliver Excellent Research, Education & Innovation	✓

## RECOMMENDATIONS

The Council of Governors is asked to note changes recommended by the Constitution Review Panel and APPROVE the amended version of the Trust Constitution (version 7.0)

## APPROVAL PROCESS

Meeting	Date	Approved Y/N
Council of Governors	17/12/19	
Board of Directors	28/01/20	

<sup>1</sup> Status: A = Approval  
 A\* = Approval & Requiring Board Approval  
 D = Debate  
 N = Note

<sup>2</sup> Against the five aims of the STHFT Corporate Strategy 2017-20

**REVIEW OF TRUST CONSTITUTION (DECEMBER 2019)****TABLE A: CHANGES**

<b>Ref</b>	<b>Section</b>	<b>Description of proposed change</b>	<b>Rationale</b>	<b>Method of Amendment</b>
1	Section 1 Interpretation and Definitions	Definition for Lead Governor added Definition of Senior Independent Director added	Completeness of content of listing definitions	Highlighted – additional text
2	Section 10.2 Patients' Constituency	Amendment of text to clarify eligibility for patient membership	Alignment with date noted in Definitions section	Highlighted – replacement of text
3	Section 12 Annual Members Meeting	Removal of reference to further provisions describing arrangements for Members Meetings	Optional annex (not found in many benchmarked examples) removed pending scheduled review of arrangements for 2020 AMM.	Highlighted - removed text
4	Section 13 Council of Governors Composition	Addition of text to confirm that the process of appointment for Appointed Governors would be agreed with the Trust	In line with benchmarked examples reviewed	Highlighted – additional text
5	Section 23 Board of Director Composition	Removal of text – reference to 'or a registered midwife'	Agreed by TEG on review of Board of Directors Terms of Reference	Highlighted – deleted text
6	Section 27 Board of Directors – Appt of Vice Chair	Addition of text – recommendation from Chair re Vice Chair appointments	To align with Trust practice	Highlighted – additional text
7	Section 29 Board of Directors - Disqualification	Addition of reference to Fit and Proper Persons requirements	In line with benchmarked examples reviewed	Highlighted – additional text

Ref	Section	Description of proposed change	Rationale	Method of Amendment
8	Section 31 Board of Directors – Standing Orders	Replacement text to note that Board Standing Orders are separately published	Enactment of action recorded under change control record (v4.0)	Highlighted – text replacement
9	Section 41 Presentation of the Annual Accounts and Report	Addition of sub-paras (41.2 and 41.3) stating that we may combine a CoG meeting convened for the purposes of 41.1 with the AMM	Clarification that the general meeting of the Council of Governors at which the annual report and accounts are presented to is also the Annual Members Meeting. In line with benchmarked examples.	Highlighted – additional text
10	Section 44 Amendment of the Constitution	Addition of sub-para 44.2 to confirm review cycle	In line with the three-year cycle set out within the Trust's Policy for the Development, Approval, Management and Dissemination of Trust Controlled Documents. Also, in line with benchmarked examples.	Highlighted – additional text
11	Section 45.3	Realignment of paragraph formatting	To reflect that 'exceed 10% applies to all three calculations in paragraph	Highlighted – paragraph realignment.
12	Annexes	Annex 1 / Annex 2 / Annex 3 / Annex 5 – collated into a single annex  Annex 4 removed Annex 9 removed Annex 6 now becomes Annex 2 Annex 7 now becomes Annex 3 Annex 8 now becomes Annex 4 Annex 10 now becomes Annex 5: appendix A Annex 11 now becomes Annex 5: appendix B	Presentational matter / simplification of content  See 3 above See 8 above Restructure of annexes	Represented Single annex  Removed Removed Reformatted

Ref	Section	Description of proposed change	Rationale	Method of Amendment
13	Annex 3 Standing Orders for Practice and Procedure of CoG (4.4 Notice of meetings and agenda)	Amend Para 4.4.1 to read 'Agendas, specifying time and location of the meeting, will be made available to members of the Council of Governors electronically or sent by post as requested at least seven clear days before the meeting.'	Wording simplified / modernised in line with benchmarking examples. No changes made to the standard described by the paragraph, other than providing for electronic circulation of papers	Highlighted – text added / removed
14	Annex 3 (4.4 Notice of meetings and agenda)	Amend Para 4.4.2 to read 'Failure to serve notice of the meeting on any one governor ....' rather than 'Want of service of the notice.....'	Wording simplified / modernised in line with benchmarking examples. No changes made to the standard described by the paragraph	Highlighted – text added / removed
15	Annex 3 (4.4 Notice of meetings and agenda)	Amend Para 4.4.5 to read 'Supporting papers that are available will be made available to Governors electronically, or sent by post as requested, five clear days before the meeting, save in the case of emergencies .....	Removes reference to agenda previously stated in 4.4.1 No changes made to the standard described by the paragraph, other than providing for electronic circulation of papers	Highlighted – text amended
16	Annex 3 (4.16 Quorum)	Additional Para (4.16.2) confirming that business may be transacted by tele / video conferencing.	To facilitate any future development of governance arrangements	Highlighted - text added / removed
17	Annex 3 (4.15 Voting)	Para 14.5.5 - Remove definition of absence from meeting	Links to (16) above Suggestion from DAC Beachcroft	Highlighted - text removed
18	Annex 3 (7.1 Code of Conduct)	Add in cross reference to Trust Standards of Business Conduct Policy	Governors are classed as decision makers under refreshed Trust policy and the Standing Orders of CoG should reference this policy	Highlighted - text added
19	Annex 3 (9 Review of Standing Orders)	Amendment of review cycle to three years	In line with the three-year cycle set out within the Trust's Policy for the Development, Approval, Management and Dissemination of Trust Controlled	Highlighted - text amended

Ref	Section	Description of proposed change	Rationale	Method of Amendment
			Documents.	
20	Annex 8 1.1 CoG eligibility criteria	Inclusion of 'a private or independent care commissioner / provider'	Panel agreed this needed to be broader to include other health service bodies	Highlighted – additional text
21	Throughout	Use of Bookmarks within contents paper and inclusion of section titles on header	Ease of navigation	Reformat of document
22	Throughout	Capitalisation of Member to denote Trust Member versus member of the Council of Governors	Clarification	Not marked (non-material change)
23	Throughout	Reformatting of numbers (0-9) in word format rather than digit format	Aligns to corporate style guide	Not marked (non-material change)
24	Throughout	Removal of 'his/her' 'he/she' to 'their' or 'they' Removal of reference within 1.2 to default use of masculine gender.	Simplification / consistency following on from amendment of default use of masculine gender throughout the document in v6.0	Not marked (non-material change)
25	Throughout	Updating of paragraph and Annex cross referencing	Requirement for review following changes to paragraph numbering based on addition and removal of content / reordering of annexes	Not marked (non-material change)



# Sheffield Teaching Hospitals NHS Foundation Trust

(A Public Benefit Corporation)

## Trust Constitution

Reference Number	Version	Status	Executive Lead(s) Name and Job Title	Author(s) Name and Job Title
	7.0	For Approval	Sandi Carman Assistant Chief Executive	Judith Green Corporate Governance Manager
<b>Approval Body</b>		Council of Governors		<b>Date Approved</b>
<b>Ratified by</b>		Board of Directors		<b>Date Ratified</b>
<b>Date Issued</b>				<b>Review Date</b> December 2022
<b>Contact for Review Name and Job Title:</b> Judith Green, Corporate Governance Manager				

**Associated Documentation:****Trust Controlled Documents**

Standing Orders for the Practice and Procedure of the Board of Directors

Standing Orders of the Council of Governors

Policy for Standards of Business Conduct

**External Documentation**

NHS Constitution

NHS Foundation Trusts: Code of Governance, Monitor 2013

Model Constitution, Monitor 2014

Model Election Rules, NHS Providers 2014

**Legal Framework**

National Health Service Act 2006

Health and Social Care Act 2012

**For more information on this document please contact:-**

Judith Green, Corporate Governance Manager

Telephone: 0114 2711708

Email: judith.green8@ nhs.net

**Version History**

Version	Issue date	Summary of amendments
1.0	30/06/2004	
1.1	01/03/2005	Amendment
1.2	14/02/2007	Amendment
1.3	03/12/2007	Amendment
2.0	22/02/2013	Material changes to ensure compliance with 2012 Health and Social Care Act Commencement Order October 2012
3.0	30/04/2013	Material changes to update v3.0 Constitution in accordance with Monitor's Model Constitution and to ensure compliance with 2012 Health and Social Care Act Commencement Order April 2013.
3.1	17/09/2014	Non-material amendments to the Constitution following annual review: References to the <i>Trust Secretary</i> have been changed to the <i>Assistant Chief Executive</i> ; references to the <i>Independent Regulator</i> have been replaced by <i>Monitor</i> and references to Monitor's Licence have been inserted, as appropriate.



3.2	01/09/2015	A material change to v3.1 Constitution to amend the maximum tenure of the Non-Executive Director representing the University of Sheffield and non-material amendments including typos, changing references to Primary and Community Services to Combined Community and Acute Care Group and inserting references to Monitor's License in the Standing Orders appendices.
4.0	06/02/2017	Non-material changes from v3.2 Constitution: Re-format in Trust Controlled Document style; as appropriate, change references from Monitor to NHS Improvement (NHSI) to reflect the launch of NHSI from 1 April 2016; and, reformat the Standing Orders of the Board of Directors which will be separately published and controlled outside the Constitution.  Material changes from v 3.2 Constitution: Paragraph inserted to clarify the need to maintain a majority for elected Public/Patient Governors compliant with section 9(1) of Schedule 7 of the NHS Act 2006; and, provision included in Annexe 8 to allow the Trust to offer the reserve candidate the opportunity to assume a vacant office of Governor for the unexpired balance of term in the event that an elected Governor ceases to hold office.
5.0	08/01/2018	Non-material changes from v4.0: Updated title for Combined Community and Acute Group and minor typos.  Material changes from v4.0: Executive Directors increased from 6 to 7 to reflect the appointment of the Director of Strategy and Planning and number of Non-Executive Directors changed from "up to 7" to "7 or more" to ensure a majority of Non-Executive Directors is maintained; creation of 2 Board committees from Finance, Performance and Workforce Committee i.e. Finance and Performance Committee and Human Resources and Organisational Development Committee; and, clarification of the relationship between the Council of Governors and the Nomination and Remuneration Committee of the Council of Governors to ensure statutory compliance.
5.1	22/05/2018	Sub-divisions of Public Constituencies corrected.
6.0	30/01/2019	Non-material changes from v5.1: changes to nomenclature and addition of points of clarification. Removal of the default use of masculine gender throughout the document, including amending job title nomenclature in respect of the Chair. Material Changes from v5.1: Removal of reference to the Independent Panel for advising governors which was disbanded by NHSI in January 2017. Annex 6 updated to reflect 2014 Model Election Rules
7.0	29/11/2019	Non-material changes from v6.0, including changes to nomenclature, paragraph formatting and the addition of points of clarification; Amendment of content reflecting the on-going development of our governance arrangements; Realignment of documents forming annexes to the Constitution; and Bringing arrangements for review in line with the three-year cycle set out within the Trust's Policy for the Development, Approval, Management and Dissemination of Trust Controlled Documents.

### Document Imprint

Copyright ©Sheffield Teaching Hospitals NHS Foundation Trust 2018: All Rights Reserved

Re-use of all or any part of this document is governed by copyright and the "Re-use of Public Sector Information Regulations 2015. SI 2015 No. 1415"

Information on re-use can be obtained from:

The Department for Information Governance, Caldicott & SIRO Support, Sheffield Teaching Hospitals NFT. Tel: 0114 226 5151. E-mail: [sth.infogov@nhs.net](mailto:sth.infogov@nhs.net)

## EXECUTIVE SUMMARY

### Trust Constitution

<b>Document Objectives:</b>	The Constitution of the Sheffield Teaching Hospitals NHS Foundation Trust
<b>Group/Persons Consulted:</b>	Council of Governors, Board of Directors and Assistant Chief Executive
<b>Monitoring Arrangements and Indicators:</b>	Annual Review undertaken on behalf of the Assistant Chief Executive
<b>Training Implications:</b>	None
<b>Equality Impact Assessment:</b>	Neutral
<b>Resource implications:</b>	None

#### Intended Recipients:

Who should:-

- **be aware of the document and where to access it** The Constitution and its annexes should be accessible to the public and are available on the Trust's website and the NHS Improvement website.
- **understand the document** Assistant Chief Executive, members of the Board of Directors, members of the Council of Governors and Senior Managers.
- **have a good working knowledge of the document** Assistant Chief Executive, members of the Board of Directors, members of the Council of Governors.

---

## Contents

1.	Interpretations and Definitions .....	6
2.	Name .....	9
3.	Principal Purpose.....	9
4.	Powers.....	9
5.	Membership and Constituencies .....	9
6.	Application for Membership .....	9
7.	Public Constituency .....	10
8.	Staff Constituency.....	10
9.	Automatic Membership by Default - Staff .....	10
10.	Patients' Constituency .....	10
11.	Restriction on Membership .....	11
12.	Annual Members' Meeting .....	11
13.	Council of Governors – Composition .....	11
14.	Council of Governors – Election of Governors .....	12
15.	Council of Governors – Tenure.....	12
16.	Council of Governors – Disqualification and Removal.....	12
17.	Council of Governors – Duties of Governors .....	13
18.	Council of Governors – Meetings of Governors.....	13
19.	Council of Governors – Standing Orders .....	13
20.	Council of Governors – Conflicts of Interests of Governors.....	13
21.	Council of Governors – Travel Expenses .....	14
22.	Council of Governors – Further Provisions.....	14
23.	Board of Directors - Composition.....	14
24.	Board of Directors – General Duty.....	14
25.	Board of Directors – Qualification for appointment as a Non-Executive Director .....	14
26.	Board of Directors – Appointment and Removal of Chair and Other Non-Executive Directors .....	15
27.	Board of Directors – Appointment of Vice Chair .....	15
28.	Board of Directors – Appointment and Removal of the Chief Executive and Other Executive Directors .....	15
29.	Board of Directors - Disqualification .....	15
30.	Board of Directors - Meetings .....	15

---

31. Board of Directors – Standing Orders.....	16
32. Board of Directors – Conflicts of Interests of Directors.....	16
33. Board of Directors – Remuneration and Terms of Office.....	17
34. Registers.....	17
35. Registers – Inspection and Copies .....	17
36. Documents available for public inspection.....	18
37. Auditor .....	19
38. Audit Committee .....	19
39. Accounts .....	19
40. Annual Report, Forward Plans and Non-NHS Work.....	19
41. Presentation of the Annual Accounts and Reports to the Governors .....	20
42. Instruments.....	20
43. Dispute Resolution Procedures .....	20
44. Amendment of the Constitution .....	21
45. Mergers etc and Significant Transactions.....	21
Annex 1: The Constituencies of the Trust and Composition of the Council of Governors ....	23
Annex 2: Model Election Rules .....	25
Annex 3: Standing Orders for the Practice and Procedure of the Council of Governors .....	63
Annex 4: Additional Provisions – Council of Governors.....	75
Annex 5: Further provisions .....	78
Appendix A – Restriction on Membership .....	78
Appendix B – Dispute Resolution Procedure .....	81

Note: The Standing Orders for the Practice and Procedure of the Board of Directors can now be found in a separate document known as the Standing Orders, Standing Financial Instructions, and Reservation and Delegation of Powers (Scheme of Delegation)

## 1. Interpretations and Definitions

- 1.1 Unless otherwise stated, words or expressions contained in this Constitution shall bear the same meaning as the National Health Service Act 206 as amended by the Health and Social Care Act 2012.
- 1.2 Words importing the ~~masculine gender only shall include the feminine gender;~~ ~~words importing the~~ singular shall import the plural and vice-versa.

<b>“the 2006 Act”</b>	is the National Health Service Act 2006.
<b>“the 2012 Act”</b>	is the Health and Social Care Act 2012.
<b>“Accounting Officer”</b>	means the person from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 of the 2006 Act.
<b>“Annual Members Meeting”</b>	is defined in paragraph 12 of the Constitution
<b>“Appointed Governor(s)”</b>	means a Governor appointed in accordance with paragraph 15.2 and as set out in Annex 1
<b>“Area of the Trust”</b>	means the area consisting of all the areas specified in Annex 1 as an area for a Public Constituency.
<b>“Assistant Chief Executive”</b>	means the Assistant Chief Executive of the Trust or any other person appointed by the Trust to perform the duties of the Assistant Chief Executive or such other person as may be appointed by the Trust to perform the functions of a Trust Secretary under this Constitution.
<b>“Board of Directors”</b>	means the Board of Directors of the Trust as constituted pursuant to this Constitution and the 2006 Act.
<b>“Carer”</b>	means an individual who has been a carer of a patient within the period commencing on the 1 April 1998, other than an individual providing care in pursuance of a contract (including a contract of employment) or as a volunteer for a voluntary organisation.
<b>“Chair”</b>	means the Chair of the Trust.
<b>“Chief Executive”</b>	means the Chief Executive (and Accountable Officer) of the Trust.
<b>“Class”</b>	means the division of a Membership Constituency by reference to the description of individuals eligible to be Members of it.
<b>“Code of Conduct”</b>	means any code of conduct published by the Trust and amended from time to time to govern or guide

	the conduct of Governors, Directors or Officers of the Trust.
<b>“Constitution”</b>	means this Constitution and all annexes to it.
<b>“Council of Governors”</b>	means the Council of Governors as constituted in accordance with this Constitution. This is the body referred to as the Council of Governors in the 2012 Act.
<b>“Director”</b>	means a Director on the Board of Directors.
<b>“Elected Governor”</b>	means those Governors elected by the Public Constituency, Staff Constituency and Patient Constituency.
<b>“Financial Year”</b>	means any period of 12 months beginning on 1st April.
<b>“Governor”</b>	means a person who is a member of the Council of Governors.
<b>“Health Service Body”</b>	shall have the same meaning as in Section 9(4) of the 2006 Act.
<b>“Lead Governor”</b>	means the lead Governor elected from amongst the Governors in accordance with the process set out in the terms of reference of the Council of Governors.
<b>“Licence”</b>	means the Trust’s licence granted by Monitor under the 2012 Act.
<b>“Local Authority Governor”</b>	means a Governor appointed by a local authority whose area includes the whole or part of the area of the Trust.
<b>“Member”</b>	means a member of the Trust.
<b>“Monitor”</b>	means the former body corporate known as Monitor, as provided by Section 61 of the 2012 Act.
<b>“Model Election Rules”</b>	means the model form rules for the conduct of elections published from time to time by NHS Providers and as currently set out in Annex 2.
<b>“NHS Improvement”</b>	means the organisational body for oversight of NHS Foundation Trusts, NHS Trusts, as well as independent providers that provide NHS-funded care and which operationally brings together a number of corporate bodies, including (inter alia) Monitor.
<b>“Patient”</b>	means an individual who has received care from

	the Trust within the period commencing on the 1 April 1998.
<b>“Patients’ Constituency”</b>	means those Members of the Patients’ Constituency.
<b>“Patient Governor”</b>	means a Governor elected by Members of the Patients’ Constituency in accordance with paragraph 13.3 of the constitution.
<b>“Public Constituency”</b>	means that part of the Trust’s Membership consisting of Members living in an Area of the Trust.
<b>“Public Governor”</b>	means a Governor elected by Members of the Public Constituency in accordance with paragraph 13.3 of the constitution.
<b>“Senior Independent Director”</b>	means the senior independent director of the Trust appointed by the Board of Directors in accordance with the Standing Orders for the Practice and Procedure of the Board of Directors.
<b>“Staff Constituency”</b>	means (collectively) those Members of the staff classes comprising the staff constituency as specified in Annex 1.
<b>“Staff Governor”</b>	means a Governor elected by Members of the Staff Constituency in accordance with paragraph 13.3 of the constitution.
<b>“Significant Transaction”</b>	is defined in paragraph 45.3.
<b>“Terms of Authorisation”</b>	are the Terms of Authorisation issued by Monitor under Section 35 of the 2006 Act.
<b>“the Trust”</b>	means the Sheffield Teaching Hospitals NHS Foundation Trust.
<b>“Trust Hospital”</b>	means all or any hospital or other patient care facilities administered by the Trust from time to time and designated by the Trust as falling within this definition.
<b>“Vice Chair”</b>	means the Vice Chair of the Trust appointed in accordance with paragraph 27 of this constitution.

## 2. Name

The name of the foundation trust is Sheffield Teaching Hospitals NHS Foundation Trust (“the Trust”).

## 3. Principal Purpose

3.1 The principal purpose of the Trust is the provision of goods and services for the purposes of the health service in England, subject to the terms of its Licence.

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, in accordance with its statutory duties and its Licence.

## 4. Powers

4.1 The powers of the Trust are set out in the 2006 Act, subject to the terms of its Licence.

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

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

## 5. Membership and Constituencies

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

5.1 a public constituency

5.2 a staff constituency, or

5.3 a patients’ constituency

## 6. Application for Membership

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



## 7. Public Constituency

- 7.1 An individual who lives in 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 for a public constituency are referred to collectively as a Public Constituency.
- 7.3 The minimum number of Members in each Public Constituency is specified in Annex 1.

## 8. Staff Constituency

- 8.1 An individual who is employed by the Trust under a contract of employment with the Trust may become, or continue as, a Member of the Trust provided:
  - 8.1.1 they are employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
  - 8.1.2 they have been continuously employed by the Trust under a contract of employment for at least 12 months.
- 8.2 Individuals who exercise functions for the purposes of the Trust, otherwise than under a contract of employment with the Trust, may become, or continue as, Members of the staff constituency provided such individuals have exercised these functions continuously for a period of at least 12 months.
- 8.3 Those individuals who are eligible for Membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.
- 8.4 The Staff Constituency shall be divided into six descriptions of individuals who are eligible for Membership of the Staff Constituency, each description of individuals being specified within Annex 1 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 1.

## 9. Automatic Membership by Default - Staff

- 9.1 An individual who is:
  - 9.1.1 eligible to become a member of the Staff Constituency, and
  - 9.1.2 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 they inform the Trust that they do not wish to do so.

## 10. Patients' Constituency

- 10.1 Within the period specified below, an individual who has received care from the Trust or has been the carer of a patient may become a member of the Trust.

- 10.2 The period referred to above shall be the period of 5 years immediately from 01 April 1998 to the point of preceding the date of an application by the patient or carer to become a Member of the Trust.
- 10.3 Those individuals who are eligible for Membership of the Trust by reason of the previous provisions are referred to collectively as the Patients' Constituency.
- 10.4 An individual providing care in pursuance of a contract (including a contract of employment) with a voluntary organisation, or as a volunteer for a voluntary organisation, does not come within the category of those who qualify for membership of the Patients' Constituency.
- 10.5 The minimum number of Members in the Patients' Constituency is specified in Annex 1.

## 11. Restriction on Membership

- 11.1 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.
- 11.2 An individual who satisfies the criteria for membership of the Staff Constituency may not become or continue as a member of any constituency other than the Staff Constituency.
- 11.3 An individual must be at least 12 years old to become a Member of the Trust.
- 11.4 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 5.

## 12. Annual Members' Meeting

- 12.1 The Trust shall hold an annual meeting of its Members ("Annual Members' Meeting"). The Annual Members' Meeting shall be open to members of the public.

~~12.2 Further provisions about the Annual Members' Meeting are set out in Annex 4.~~

## 13. Council of Governors – Composition

- 13.1 The Trust is to have a Council of Governors, which shall comprise both elected and appointed governors.
- 13.2 The composition of the Council of Governors is specified in Annex 1.
- 13.3 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 1.
- 13.4 The organisations referred to in Annex 1 shall be entitled to appoint one individual, as set out in Annex 1 as Appointed Governors in accordance with a process of appointment agreed with the Assistant Chief Executive.

- 13.5 The Council of Governors shall at all times be constituted so that Governors elected from the Public and the Patient Constituencies are in the majority.

#### 14. Council of Governors – Election of Governors

- 14.1 Elections for elected members of the Council of Governors shall be conducted in accordance with the Model Election Rules.
- 14.2 The Model Election Rules as published from time to time by NHS Providers form part of this Constitution. The Model Election Rules current at the date of the Constitution as last amended are attached at Annex 2.
- 14.3 A subsequent variation of the Model Election Rules shall not constitute a variation of the terms of this Constitution for the purposes of Paragraph 44 of the Constitution (Amendment of the Constitution).
- 14.4 An election, if contested, shall be by secret ballot.

#### 15. Council of Governors – Tenure

- 15.1 An elected governor:
- 15.1.1 may hold office for a period of up to three years;
  - 15.1.2 shall cease to hold office if they cease to be a member of the constituency or class by which they were elected;
  - 15.1.3 shall be eligible for re-election at the end of their term, with a maximum of three consecutive terms;
  - 15.1.4 may not stand again for election as Governor until three years has elapsed since they resigned or they have completed the maximum three terms as a Governor.
- 15.2 An appointed Governor:
- 15.2.1 may hold office for a period of up to three years;
  - 15.2.2 shall cease to hold office if the appointing organisation withdraws its their sponsorship of him/her;
  - 15.2.3 shall be eligible for re-appointment at the end of their term.

#### 16. Council of Governors – Disqualification and Removal

- 16.1 The following may not become or continue as a member of the Council of Governors:
- 16.1.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged;
  - 16.1.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it;
  - 16.1.3 a person who within the preceding five years has been convicted in the 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/her.

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

16.3 Further provisions as to the circumstances in which an individual may not become or continue as a member of the Council of Governors and for the removal of Governors are set out in Annex 4.

## 17. Council of Governors – Duties of Governors

17.1 The general duties of the Council of Governors are:

17.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors, and

17.1.2 to represent the interests of the Members of the Trust as a whole and the interest of the public.

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

## 18. Council of Governors – Meetings of Governors

18.1 The Chair of the Board of Directors or in their absence the Vice Chair (appointed in accordance with Paragraph 27 of this Constitution) shall preside at meetings of the Council of Governors.

18.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for consideration of confidential business by resolution of the Council of Governors.

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

## 19. Council of Governors – Standing Orders

The standing orders for the practice and procedure of the Council of Governors are attached at Annex 3.

## 20. Council of Governors – Conflicts of Interests of Governors

20.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as the Governor themselves become aware of it.

20.2 The Standing Orders for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

## 21. 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.

## 22. Council of Governors – Further Provisions

Further provisions with respect to the Council of Governors are set out in Annex 4.

## 23. Board of Directors - Composition

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

23.2 The Board of Directors is to comprise:

23.2.1 a Non-Executive Chair

23.2.2 Seven or more other Non-Executive Directors; and

23.2.3 Up to seven Executive Directors.

23.3 The Board of Directors shall at all times be constituted so that the number of Non-Executive Directors (excluding the Chair) equals or exceeds the number of Executive Directors.

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

23.5 The Chief Executive shall be the Accounting Officer.

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

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

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

23.9 One of the Non-Executive Directors is to exercise functions for the purposes of The University of Sheffield.

23.10 The post of Executive Director may be held by more than one individual on a job share basis (although the Executive Director position of registered medical practitioner or registered dentist and the Executive Director position of registered nurse or midwife cannot be shared between two professions) but where such an arrangement is in force the individuals shall only count as one Executive Director and may only exercise one vote between them at any meeting of the Board of Directors.

## 24. Board of Directors – General Duty

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

## 25. Board of Directors – Qualification for appointment as a Non-Executive Director

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

- 25.1 they are a member of a Public or the Patient Constituency, or
- 25.2 where any of the Trust's hospitals includes a medical or dental school provided by a university, they exercise functions for the purposes of that university, and
- 25.3 they are not disqualified by virtue of Paragraph 29 below.

## 26. Board of Directors – Appointment and Removal of Chair and Other Non-Executive Directors

- 26.1 The Council of Governors at a general meeting of the Council of Governors shall appoint or remove the Chair of the Trust and the other Non-Executive Directors.
- 26.2 Removal of the Chair or another Non-Executive Director shall require the approval of three-quarters of the members of the Council of Governors.

## 27. Board of Directors – Appointment of Vice Chair

The Council of Governors at a general meeting of the Council of Governors shall appoint one of the Non-Executive Directors **on the recommendation of the Chair** as a Vice Chair.

## 28. Board of Directors – Appointment and Removal of the Chief Executive and Other Executive Directors

- 28.1 The Non-Executive Directors shall appoint or remove the Chief Executive.
- 28.2 The appointment of the Chief Executive shall require the approval of the Council of Governors.
- 28.3 A committee consisting of the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

## 29. Board of Directors - Disqualification

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

- 29.1 a person who has been adjudged bankrupt or whose estate has been sequestrated and (in either case) has not been discharged.
- 29.2 a person who has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it.
- 29.3 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 them.
- 29.4 a person who does not satisfy all of the 'fit and proper person' requirements set out in regulation 5(3) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

## 30. Board of Directors - Meetings

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

- 30.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meetings to the Council of Governors.

### 31. Board of Directors – Standing Orders

~~The standing orders for the practice and procedure of the Board of Directors as may be varied from time to time are attached at Annex 9.~~

The standing orders for the practice and procedure of the Board of Directors can be found in a separate Trust Controlled Document.

### 32. Board of Directors – Conflicts of Interests of Directors

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

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

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

- 32.2 The duty referred to in Paragraph 32.1.1 is not infringed if:

32.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

32.2.2 The matter has been authorised in accordance with the Constitution.

- 32.3 The duty referred to in Paragraph 32.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

- 32.4 In Paragraph 32.1.2, “third party” means a person other than:

32.4.1 The Trust, or

32.4.2 A person acting on its behalf.

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

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

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

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

- 32.9 A Director need not declare an interest:

- 32.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 32.9.2 If, or to the extent that, the Directors are already aware of it;
- 32.9.3 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:
  - 32.9.3.1 By a meeting of the Board of Directors, or
  - 32.9.3.2 By a committee of the Directors appointed for the purpose under the Constitution.

### 33. Board of Directors – Remuneration and Terms of Office

- 33.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors on the recommendation of the Council of Governors' Nominations and Remuneration Committee.
- 33.2 The Board of Directors' Nominations and Remuneration Committee shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

### 34. Registers

The Trust shall have and maintain:

- 34.1 a register of Members showing, in respect of each member, the constituency to which they belong and, where there are classes within it, the class to which they belong;
- 34.2 a register of members of the Council of Governors;
- 34.3 a register of interests of members of the Council of Governors;
- 34.4 a register of members of the Board of Directors; and
- 34.5 a register of interests of members of the Board of Directors.

### 35. Registers – Inspection and Copies

- 35.1 The Trust shall make the registers specified in Paragraph 34 above available for inspection by members of the public, except in the circumstances set out below or as otherwise prescribed by regulations.
- 35.2 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of:
  - 35.2.1 any member of the Patients' Constituency; or
  - 35.2.2 any other member of the Trust, if they so request.
- 35.3 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.



---

## 36. Documents available for public inspection

- 36.1 The Trust shall make the following documents available for inspection by members of the public free of charge at all reasonable times:
- 36.1.1 a copy of the current Constitution;
  - 36.1.2 a copy of the latest Annual Accounts and of any report of the Auditor on them, and
  - 36.1.3 a copy of the latest Annual Report;
- 36.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:
- 36.2.1 a copy of any order made under Section 65D (appointment of Trust Special Administrator); Section 65J (power to extend time); Section 65KC (action following Secretary of State's rejection of final report); Section 65L (trusts coming out of administration); or Section 65LA (trusts to be dissolved) of the 2006 Act.
  - 36.2.2 a copy of any report laid under Section 65D (appointment of Trust Special Administrator) of the 2006 Act.
  - 36.2.3 a copy of any information published under Section 65D (Appointment of Trust Special Administrator) of the 2006 Act.
  - 36.2.4 a copy of any draft report published under Section 65F (Administrator's draft report) of the 2006 Act.
  - 36.2.5 a copy of any statement provided under Section 65F (Administrator's draft report) of the 2006 Act.
  - 36.2.6 a copy of any notice published under Section 65F (Administrator's draft report); Section 65G (consultation plan); Section 65H (consultation requirements); Section 65J (power to extend time), Section 65KA (decision by NHS Improvement [NHSI] decision); Section 65KB (Secretary of State's response to NHSI's decision); Section 65KC (action following Secretary of State's rejection of final report); or Section 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act.
  - 36.2.7 a copy of any statement published or provided under Section 65G (consultation plan) of the 2006 Act.
  - 36.2.8 a copy of any final report published under Section 65I (Administrator's final report) of the 2006 Act.
  - 36.2.9 a copy of any statement published under Section 65J (power to extend time) or Section 65KC (action following Secretary of State's rejection of final report) of the 2006 Act.
  - 36.2.10 a copy of any information published under Section 65M (replacement of Trust Special Administrator) of the 2006 Act.

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

36.4 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.

### 37. Auditor

37.1 The Trust shall have an Auditor and shall provide the Auditor with every facility and all information which they may reasonably require for the purposes of their functions under Chapter 5 of part 2 of the 2006 Act.

37.2 A person may only be appointed Auditor if they (or in the case of a firm, each of its members) is a member of one or more of the bodies referred to in Paragraph 23 (4) of Schedule 7 of the 2006 Act.

37.3 The Council of Governors shall appoint or remove the Auditor at a general meeting of the Council of Governors.

37.4 The Accounting Officer shall ensure that the Auditor carries out their duties in accordance with Schedule 10 of the 2006 Act and in accordance with any directions given by NHS Improvement on standards, procedures and techniques to be adopted.

### 38. 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 is appropriate. One of the Non-Executive Director members of the Audit Committee must satisfy the UK Corporate Governance Code requirement of having relevant and recent financial experience. This shall normally be the Chair of the Committee.

### 39. Accounts

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

39.2 NHS Improvement (NHSI) may with the approval of the Secretary of State give directions to the Trust as to the content and form of its accounts.

39.3 The accounts are to be audited by the Trust's Auditor.

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

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

### 40. Annual Report, Forward Plans and Non-NHS Work

41.1 The Trust shall prepare an Annual Report and send it to NHS Improvement (NHSI).

41.2 The Trust shall give information as to its forward planning in respect of each financial year to NHSI.

- 41.3 The document containing the information with respect to forward planning (referred to above) shall be prepared by the Directors.
- 41.4 In preparing the document, the Directors shall have regard to the views of the Council of Governors.
- 41.5 Each forward plan must include information about:
- 41.5.1 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
  - 41.5.2 the income it expects to receive from doing so.
- 41.6 Where a forward plan contains a proposal that the Trust carry on an activity of a kind mentioned in sub-paragraph 41.5.1 the Council of Governors must:
- 41.6.1 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
  - 41.6.2 notify the Directors of the Trust its determination.
- 41.7 If the Trust proposes to increase by five per cent 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 it may implement the proposal only if more than half of the members of Council of Governors of the Trust voting approve its implementation.

#### 41. Presentation of the Annual Accounts and Reports to the Governors

- 41.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:
- 41.1.1 the Annual Accounts
  - 41.1.2 any report of the Auditor on them
  - 41.1.3 the Annual Report

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

41.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 41.1 with the Annual Members' Meeting.

#### 42. Instruments

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

#### 43. Dispute Resolution Procedures

Dispute resolution procedures relating to the Council of Governors and Board of Directors are set out at Annex 5.

#### 44. Amendment of the Constitution

- 44.1 The Trust may make amendments to this Constitution only if:
- 44.1.1 More than half of the members of the Council of Governors of the Trust voting approve the amendments, and
  - 44.1.2 More than half of the members of the Board of Directors of the Trust voting approve the amendments.
- 44.2 The Constitution shall be formally reviewed by the Council of Governors and Board of Directors every three years.**
- 44.3 Amendments made under Paragraph 44.1 take effect as soon as the conditions in that Paragraph are satisfied, but the amendment has no effect in so far as the Constitution would, as a result of the amendment, not accord with Schedule 7 of the 2006 Act.
- 44.4 Where an amendment is made to the Constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):
- 44.4.1 At least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment, and
  - 44.4.2 The Trust must give the Members an opportunity to vote on whether they approve the amendment.
- 44.5 If more than half of the Members voting approve the amendment, the amendment continues to have effect; otherwise it ceases to have effect and the Trust must take such steps as are necessary as a result.
- 44.6 Amendments by the Trust of its Constitution are to be notified to NHS Improvement (NHSI). For the avoidance of doubt, NHSI functions do not include a power or duty to determine whether or not the Constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.
- 44.7 Any queries raised by either a Member, a Governor, or a Director on questions regarding the interpretation of the Constitution shall be determined by the Chair in their absolute discretion. In reaching their determination the Chair shall have regard to the views of the Senior Independent Director and the Chief Executive.

#### 45. Mergers etc and Significant Transactions

- 45.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of the Council of Governors.
- 45.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors voting approve entering into the transaction.

- 45.3 “Significant transaction” referred to in Paragraph 45.3 means any transaction where:
- 45.3.1 The gross assets subject to transaction, divided by the gross assets of the Trust, or
  - 45.3.2 The income attributable to the assets or the contract associated with the transaction, divided by the income of the Trust, or
  - 45.3.3 The gross capital of the company or business being acquired or divested, divided by the total capital of the Trust following completion or the effects on the total capital on the Trust resulting from a transaction
- exceed 10% (ten per cent).

## ANNEX 1: THE CONSTITUENCIES OF THE TRUST AND COMPOSITION OF THE COUNCIL OF GOVERNORS

Trust Constituency	Area / Electoral Ward of the Trust / Staff Class	Minimum number of Members
Public Constituency - North Sheffield	<ul style="list-style-type: none"> <li>• Burngreave;</li> <li>• East Ecclesfield</li> <li>• Firth Park</li> <li>• Shiregreen and Brightside</li> <li>• Southey</li> <li>• West Ecclesfield</li> </ul>	100
Public Constituency – Sheffield South East	<ul style="list-style-type: none"> <li>• Arbourthorne</li> <li>• Beighton</li> <li>• Birley</li> <li>• Darnall</li> <li>• Gleadless Valley</li> <li>• Manor Castle</li> <li>• Mosborough</li> <li>• Richmond</li> <li>• Woodhouse</li> </ul>	100
Public Constituency – Sheffield South West	<ul style="list-style-type: none"> <li>• Beauchief and Greenhill</li> <li>• Dore and Totley</li> <li>• Ecclesall</li> <li>• Fulwood</li> <li>• Graves Park</li> <li>• Nether Edge</li> </ul>	100
Public Constituency – Sheffield West	<ul style="list-style-type: none"> <li>• Broomhill</li> <li>• Central</li> <li>• Crookes</li> <li>• Hillsborough</li> <li>• Stannington</li> <li>• Stocksbridge and Upper Don</li> <li>• Walkley</li> </ul>	100
Public Outside Sheffield	All other electoral wards in England and Wales (i.e. excluding the electoral wards listed above)	100
Staff Constituency: Medical and Dental Staff	Individuals employed by the Trust and working in a role that requires the individual to be registered with either the General Medical Council or the General Dental Council.	20
Staff Constituency: Nursing and Midwifery Staff	Individuals employed by the Trust and working in a role that requires the individual to be registered with the Nursing and Midwifery Council.	20
Staff Constituency: Allied Health Professionals, Scientists and Technicians Staff	Individuals employed by the Trust and working in a role that requires them to be registered with the Council for Healthcare Regulatory Excellence, except those who are doctors, dentists, nurses or midwives	20
Staff Constituency: Administration, Management and Clerical Staff	Individuals employed and designated by the Trust as management, administrative or clerical staff	20
Staff Constituency: Ancillary, Works and Maintenance Staff	Individuals employed and designated by the Trust as ancillary, works or maintenance staff.	20
Staff Constituency: Primary and Community Services	Individuals who are employed by the Trust within the Combined Community and Acute Group.	20
Patients Constituency	See Paragraph 10 of the Constitution	100

## Annex 1: Trust Constituencies and Composition of the Council of Governors

Composition of the Council of Governors	
<b>Public Governors (elected)</b>	
North Sheffield Constituency	3
Sheffield South East Constituency	3
Sheffield South West Constituency	3
Sheffield West Constituency	3
Outside Sheffield Constituency	1
<b>Sub total</b>	<b>13</b>
<b>Staff Governors (elected)</b>	
Medical and Dental Staff Constituency	1
Nursing and Midwifery Staff Constituency	1
Allied Health Professionals, Scientists and Technicians Staff Constituency:	1
Administration, Management and Clerical Staff Constituency:	1
Ancillary, Works and Maintenance Staff Constituency:	1
Primary and Community Services Staff Constituency	1
<b>Sub total</b>	<b>6</b>
<b>Patient Governors (elected)</b>	
	<b>7</b>
<b>Appointed Governors (appointed)</b>	
NHS Sheffield Clinical Commissioning Group	1
Sheffield City Council	2
University of Sheffield	1
Sheffield Hallam University	1
Sheffield College	1
Voluntary Action Sheffield	1
<b>Sub total</b>	<b>7</b>
<b>TOTAL</b>	<b>33</b>

## **ANNEX 2: MODEL ELECTION RULES**

*(see Paragraph 14 of the Constitution)*

Pages 25 to 62 of the Trust Constitution are the Model Election Rules inserted



## ANNEX 3: STANDING ORDERS FOR THE PRACTICE AND PROCEDURE OF THE COUNCIL OF GOVERNORS

[See Paragraph 19 of the Constitution]

### 1. Introduction

These Standing Orders form part of the Constitution of Sheffield Teaching Hospitals NHS Foundation Trust.

### 2. Interpretation

2.1 The Chair shall be the final authority on the interpretation of the Standing Orders, (on which they should be advised by the Assistant Chief Executive).

2.2 Unless a contrary intention is evident or the context requires otherwise, words or expressions contained in these Standing Orders shall bear the same meaning as in the Constitution.

### 3. The Trust

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

### 4. Meeting of the Council of Governors

#### 4.1 Admission of the public and the press

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

*“That members of the public and representatives of the press 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”.*

4.1.2 The right of attendance referred to in Paragraph 4.1.1 of these Standing Orders carries no right to ask questions or to otherwise participate in the meeting.

4.1.3 The Chair (or other person presiding under the provisions of Paragraph 4.6 of these Standing Orders) shall give such directions as they see fit in regard to the arrangements for meetings and accommodation of members of the public and representatives of the press such as to ensure that the business of the meeting 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 Council of Governors resolving as follows:

*“That in the interests of public order the meeting adjourn for (the period to be specified) to enable the completion of business without the presence of the public”.*

4.2 Confidentiality

- 4.2.1 Nothing in these Standing Orders shall require the Council of Governors to allow members of the public or representatives of the press to record proceedings in any manner whatsoever, other than in writing, or to make any oral report of proceedings as they take place without prior agreement of the Governors' Council.
- 4.2.2 Matters to be dealt with by the Council of Governors following the exclusion of the public shall be confidential to the Governors, Directors and Officers and any employee of the Trust in attendance.
- 4.2.3 Governors, Directors, Officers and any employee of the Trust and external advisers/observers in attendance shall not reveal or disclose the contents of papers marked "In Confidence" or minutes headed "Items taken in Private" outside the Council of Governors meeting, without the express permission of the Council of Governors. This prohibition shall apply equally to the content of any discussion during the meeting of the Council of Governors which may take place on such papers.

4.3 Calling meetings

- 4.3.1 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 held in any one Financial Year.
- 4.3.2 Meetings of the Council of Governors may be called by the Assistant Chief Executive at any time:
  - 4.3.2.1 by the order of the Chair: or
  - 4.3.2.2 by requisition from at least 11 Governors (which must include at least two Elected Governors and at least two Appointed Governors) giving notice in writing to the Assistant Chief Executive specifying the business to be carried out.
- 4.3.3 If the Assistant Chief Executive at refuses to call a meetings after receiving a requisition in accordance with Paragraph 4.3.2.2 of these Standing Orders, or if, without so refusing, the Assistant Chief Executive does not call a meeting within seven clear days after such a requisition has been presented to them, the Chair or the 11 Governors, whichever is the case, may forthwith call a meeting for the purpose of conducting that business.

4.4 Notice of meetings and agenda

- ~~4.4.1 Before each meeting of the Council of Governors, the Assistant Chief Executive shall issue a notice of the meeting, specifying the place and date of the meeting and the business proposed to be transacted at it, and signed by the Chair or by an Officer of the Trust authorised by the Chair to sign on their behalf. The Assistant Chief Executive shall~~

~~deliver it to, or sent by post to the usual place of residence of every Governor so as to be available to him/her at least seven clear days before the meeting.~~

- 4.4.1 Agendas, specifying time and location of the meeting, will be made available to members of the Council of Governors electronically, or sent by post as requested, at least seven clear days before the meeting.
- 4.4.2 ~~Want of service of the~~ Failure to serve notice on any one Governor shall not affect the validity of a meeting but failure to serve such a notice on more than three Governors shall invalidate the meeting. A notice shall be presumed to have been served at the time at which the notice would be delivered in the ordinary course of the post.
- 4.4.3 Before each meeting of the Council of Governors, a public notice of the date, time and place of the meeting, and the public part of the agenda, shall be posted on the Trust's website at least seven clear days before the meeting, save in the case of emergency meetings.
- 4.4.4 In the case of a meeting called by Governors in default of the Assistant Chief Executive in accordance with Paragraph 4.3.3 of these Standing Orders, the notice shall be signed by those Governors and no business shall be transacted at the meeting other than that specified on the notice.
- 4.4.5 ~~Agendas (and~~ Supporting papers that are available will be sent made available to Governors electronically, or sent by post as requested, five clear days before the meeting, save in the case of emergencies. It is the responsibility of the Chair, through the office of the Assistant Chief Executive, to ensure that sufficient information is provided to Governors to ensure that rational discussion can take place.
- 4.4.6 In the event of an emergency giving rise for the need for an urgent meeting, failure to comply with the notice periods referred to in Paragraph 4.4 of these Standing Orders shall not prevent the calling of or invalidate such meeting provided that every effort is made to contact Governors who are not absent from the United Kingdom and the agenda for the meeting is restricted to matters arising in that emergency.
- 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 of the Council of Governors and shall be addressed prior to any other business being conducted, ("Standing Items").
- 4.5.2 A Governor desiring a matter, other than a Standing Item, to be included on an agenda shall make their request in writing to the Chair at least 10 clear days before the meeting. The request should state whether the matter is proposed to be transacted in the presence of the

public and should include appropriate supporting information. Requests made less than 10 clear days before a meeting may be included on the agenda at the discretion of the Chair.

4.6 Chair of meeting

4.6.1 At any meeting of the Council of Governors, the Chair, if present, shall preside and shall exercise the right to a casting vote where the number of votes for and against a motion is equal.

4.6.2 If the Chair is absent from the meeting or is temporarily absent on the grounds of a declared conflict of interest, the Vice Chair shall preside and he or she shall exercise all rights and obligations of the Chair including the right to a casting vote where the number of votes for and against a motion is equal.

4.6.3 If Chair and the Vice Chair are absent from the meeting or temporarily absent on the grounds of a declared conflict of interest, the Council of Governors shall appoint another Non-Executive Director to preside over that meeting and they shall exercise all rights and obligations of the Chair including the right to a casting vote where the number of votes for and against a motion is equal.

4.6.4 If any matter for consideration at a meeting of the Council of Governors relates to the conduct or interests of the Chair and Non-Executive Directors, as a class, the Council of Governors shall appoint a Governor to preside over the period of the meeting during which the matter is under discussion and he or she shall exercise all rights and obligations of the Chair including the right to a casting vote where the number of votes for and against a motion is equal.

4.7 Notice of Motion

A Governor desiring to move or amend a motion shall send a written notice thereof at least ten clear days before the meeting to the Chair, who shall insert in the agenda for the meeting all notices so received subject to the notice being permissible under Paragraph 4.10 of these Standing Orders. This paragraph shall not prevent any motion being moved during the meeting, without notice on any business mentioned on the agenda subject to Paragraph 4.4.4.

4.8 Withdrawal of Motion or Amendments

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

4.9 Motion to Rescind a Resolution

Notice of motion to amend or rescind any resolution (or general substance of any resolution) which has been passed within the preceding six calendar months shall bear the signature of the Governor(s) who gives notice and also the signature of four other Governors, at least two of whom shall be as Public Governors. When any such motion has been disposed of by the Trust, it shall not be competent for any Governor other than the Chair to propose a motion to

the same effect within six months, however the Chair may do so if they consider it appropriate.

#### 4.10 Motions

4.10.1 Where a Governor has requested inclusion of a motion on the agenda in accordance with Paragraph 4.5.2 of these Standing Orders as a matter to be formally proposed for discussion and voting on at a meeting of the Council of Governors the provisions of this Paragraph (Paragraph 4.10 of these Standing Orders) shall apply.

4.10.2 The mover of a motion shall have the right of reply at the close of any discussion on the motion or any amendment thereto, or to raise a point of order.

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

4.10.3.1 that the motion be withdrawn; or

4.10.3.2 an amendment to the motion; or

4.10.3.3 the adjournment of the discussion or the meeting; or

4.10.3.4 that the meeting proceed to the next item of business on the agenda; or

4.10.3.5 the appointment of an ad hoc committee to deal with a specific item of business; or

4.10.3.6 that the public be excluded from the meeting in relation to discussion concerning the motion under Paragraph 4.1.1 of these Standing Orders

4.10.3.7 that the motion be now put.

4.11 In the case of Paragraph 4.10.3.2 of these Standing Orders, no amendment to the motion shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the motion.

4.12 In the case of Paragraph 4.10.3.3 of these Standing Orders, the Council of Governors may by resolution adjourn any meeting to some other specified date, place and time and such adjourned meeting shall be deemed a continuation of the original meeting. No business shall be transacted at any adjourned meeting which was not included in the agenda of the meeting of which it is an adjournment.

4.13 In the case of Paragraphs 4.10.3.4 or 4.10.3.7 of these Standing Orders, to ensure objectivity motions may only be put by a Governor who has not previously taken part in the debate and is eligible to vote.

#### 4.14 Chair's Ruling

Statements of Governors made at meetings of the Council of Governors shall be relevant to the matter under discussion at the material time and subject to Paragraph 2.1 of these Standing Orders, the decision of the Chair of the

meeting on questions of order, relevancy, regularity and any other matters shall be final.

### 4.15 Voting

- 4.15.1 If in the opinion of the Chair of the meeting, a vote should be required on a question at a meeting, the result shall be determined by a majority of the votes of the Governors present and voting on the question.
- 4.15.2 In the case of an equality of votes, the Chair of the meeting shall have a second or casting vote.
- 4.15.3 All questions put to the vote shall at the discretion of the Chair of the meeting, be determined by oral expression or by a show of hands. A paper ballot may also be used if a majority of the Governors present so request.
- 4.15.4 If a Governor so requests, their vote shall be recorded by name upon any vote (other than by paper ballot).
- 4.15.5 In no circumstances may an absent Governor vote by proxy. ~~Absence is defined as being absent at the time of the vote.~~
- 4.15.6 A resolution for the removal of the Chair or a Non-Executive Director shall require the approval of three-quarters of the Council of Governors.

### 4.16 Quorum

- 4.16.1 No business shall be transacted at a meeting of the Council of Governors unless one-third of the whole number of the Governors are present including at least five Public Governors, one Patient Governor and one Staff Governor.
- 4.16.2 At the discretion of the Chair, business may be transacted through a teleconference or videoconference provided that all Governors present are able to hear all other parties and where an Agenda has been issued in advance. Participation in a meeting via electronic means shall constitute presence in person at the meeting.
- 4.16.3 If a Governor has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest in accordance with Paragraph 6.1 of these Standing Orders they shall no longer count toward 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. The meeting must then proceed to the next business on the agenda.

### 4.17 Minutes

- 4.17.1 The minutes of the proceedings of a meeting of the Council of Governors shall be drawn up by the Assistant Chief Executive and

submitted for agreement at the next ensuing meeting where they will be signed by the person presiding at it.

- 4.17.2 No discussion shall take place upon the Minutes, except upon their accuracy or where the Chair of the meeting considers discussion appropriate. Any amendments to the minutes shall be agreed and recorded at the next meeting.
- 4.17.3 Minutes shall be circulated in accordance with Governors' wishes. Where providing a record of a meeting held in public, the minutes shall be made available to the public on the Trust's website.

#### 4.18 Record of attendance

The following attendances shall be recorded in the Minutes:

- 4.18.1 the name of the person(s) chairing the meeting
- 4.18.2 the names of the Governors present at the meeting; and
- 4.18.3 the names of Directors, Officers and any employee of the Trust in attendance at the meeting.

#### 4.19 Suspension of Standing Orders

- 4.19.1 Except where this would contravene any provision of the Constitution or its Licence or any statutory provision or any direction made by NHSI, any one or more of the Standing Orders may be suspended at any meeting of the Council of Governors, provided that at least two-thirds of the Governors are present and that a majority of those present vote in favour of suspension.
- 4.19.2 A decision to suspend one or more of the Standing Orders shall be recorded in the minutes of the meeting.
- 4.19.3 A separate record of matters discussed during the suspension of Standing Orders shall be made and shall be available to the Chair and the Governors.
- 4.19.4 No formal business may be transacted while Standing Orders are suspended, where formal business shall include the proposal of motions and the determination of questions and motions by voting or otherwise.
- 4.19.5 The Audit Committee of the Board of Directors shall review every decision of the Council of Governors to suspend these Standing Orders.
- 4.19.6 All decisions taken in good faith at the meeting of the Council of Governors or its committees, as described in Paragraph 4 of these Standing Orders, shall be valid even if it is subsequently discovered that there was a defect in the calling of the meeting or the appointment of the Governors attending the meeting.

### 5 Committees

- 5.1 The Council of Governors may not delegate any of its powers to a committee or sub-committee but it may appoint working groups to assist the Council of Governors in carrying out and properly performing its functions under the Regulatory Framework. The Council of Governors may appoint Governors and may invite Directors or Officers of the Trust and other persons to serve on such committees.
- 5.2 The Nominations and Remuneration Committee of the Council of Governors is constituted as a standing committee of the Council of Governors.
- 5.3 The Nominations and Remuneration Committee of the Council of Governors and any working group constituted by the Council of Governors is authorised by the Council of Governors to act within its terms of reference, as approved by the Council of Governors, in accordance with the Statutory and Regulatory Framework. Such terms of reference shall have effect as if incorporated into these Standing Orders but for the avoidance of doubt, do not form part of these Standing Orders or the Constitution.
- 5.4 The Council of Governors shall approve the appointment of members to the Nominations and Remuneration Committee and any working group which it has formally constituted.
- 5.5 Where the Governors' Council determines that persons, who are neither Governors nor Directors or Officers or employees of the Trust, shall be appointed to the Nominations and Remuneration Committee or a working group formally constituted by the Council of Governors, the terms of such an appointment shall be determined by the Council of Governors subject to the payment of travelling and other allowances as may be determined by the Board of Directors and/or NHSI. For the avoidance of doubt such persons shall not be entitled to exercise voting rights.
- 5.6 The Chair of the Nominations and Remuneration Committee shall be the Chair of the Board of Directors. The Vice Chair of the Nominations and Remuneration Committee shall be elected by a majority vote of the members of the committee, subject to approval by the Council of Governors.
- 5.7 If requested by the Board of Directors and approved by the Council of Governors, the Council of Governors may appoint Governors as members or to attend and/or advise at joint committees of the Board of Directors or committees of the Board of Directors.

### 6 Declarations of Interest and Register of Interests

- 6.1 Declaration of Interests
- 6.1.1 Paragraph 20 of the Constitution requires Governors to declare:
- 6.1.1.1 any actual or potential interest, direct or indirect, which is relevant and material to the business of the Trust, as described in Paragraph 6.2.1 of these Standing Orders.



- 6.1.1.2 any actual or potential pecuniary interest, direct or indirect, in any contract, proposed contract or other matter concerning the Trust, as described in Paragraphs 6.2.2 and/or 6.2.3 of these Standing Orders.
    - 6.1.1.3 any actual or potential family interest, direct or indirect of which the Governor is aware, as described in Paragraph 6.2.5 of these Standing Orders.
  - 6.1.2 Such a declaration shall be made either at the time of the Governors' election or appointment, whichever is the case, or as soon thereafter as the interest arises, but within five clear days of the Governor becoming aware of the existence of that interest and in a form prescribed by the Assistant Chief Executive.
  - 6.1.3 In addition, if a Governor is present at a meeting of the Council of Governors and has an interest of any sort in any manner which is the subject of consideration, they shall disclose the fact as soon as is practicable and shall withdraw from the meeting and play no part in relevant discussion or decision and shall not vote on any question with respect to the matter.
- 6.2 Nature of Interests
  - 6.2.1 Any Interests that should be regarded as "relevant and material" include:
    - 6.2.1.1 directorships, including Non-Executive directorships held in private companies or public limited companies (with the exception of those of dormant companies); or
    - 6.2.1.2 ownership, part-ownership or directorship of private companies businesses or consultancies likely to do business with the NHS or the Trust; or
    - 6.2.1.3 majority or controlling share holdings in organisations likely to do business with the NHS or the Trust; or
    - 6.2.1.4 position of authority in a charity or voluntary organisation in the field of health and social care; or
    - 6.2.1.5 any connection with a voluntary organisation or other organisation contracting for NHS or Trust services or commissioning NHS or Trust services; or
    - 6.2.1.6 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.
  - 6.2.2 A Governor shall be treated as having indirectly a pecuniary interest in a contract, a proposed contract or other matter if:
    - 6.2.2.1 they themselves or a nominee of theirs' is a director of a company or other body, not being a public body, with which

the contract was made or is proposed to be made or which has a direct a direct pecuniary interest in the other matter under consideration; or

6.2.2.2 they are a partner of, or are in the employment of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

6.2.3 A Governor shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:

6.2.3.1 of themselves or a nominee of theirs is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct a direct pecuniary interest in the other matter under consideration; or

6.2.3.2 of their membership of a company or other body, if they have no beneficial interest in any securities of that company or other body; or

6.2.3.3 of an interest in any company, body or person with which they are connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Governor in the consideration or discussion of, or in voting on, any question with respect to that contract or matter; or

6.2.3.4 of any travelling or other expenses or allowances payable to a Governor in accordance with Paragraph 21 of the Constitution.

6.2.4 Where a Governor:

6.2.4.1 has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body; and

6.2.4.2 the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less; and

6.2.4.3 if the share capital is of more than one class, the total nominal value of shares of any one class in which they have a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

the Governor shall not be prohibited from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to their duty to disclose their interest.

6.2.5 Any actual or potential family interest, direct or indirect of which the Governor is aware, where a family interest is an interest of the spouse or partner or any parent, child, brother or sister of a Governor which if it were the interest of that Governor would be a personal interest or a pecuniary interest of their.

6.2.6 If a Governor has any doubt about the relevance or materiality of an interest, this should be discussed with the Chair or the Assistant Chief Executive. Influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest. The interests of partners in professional partnerships including general practitioners should also be considered.

### 6.3 Register of interests of members of the Council of Governors

In accordance with Paragraph 34.3 of the Constitution, the Assistant Chief Executive shall keep a register of interests of members of the Council of Governors which shall contain the name of each Governor, whether they have declared any interest and if so, the interest declared.

## 7 Standards of Business Conduct

### 7.1 Code of Conduct

Governors shall comply with the Trust's Council of Governors Code of Conduct, **the Trust's Standards of Business Conduct Policy** and any guidance and best practice advice issued by NHSI.

### 7.2 Interest of Governors in Contracts

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

### 7.3 Appointments and Recommendations

7.3.1 Canvassing of Governors directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph (Paragraph 7.3.1 of these Standing Orders) shall be included in all Trust application forms or otherwise brought to the attention of candidates.

7.3.2 A Governor shall not solicit for any person any appointment under the Trust or recommend any person for such appointment but 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.

7.3.3 Informal discussions, outside nomination or appointment panels, committees or groups, whether solicited or unsolicited, should be declared to the panel, committee or group in question.

#### 7.4 Relatives of Governors

7.4.1 Candidates for any staff appointment under the Trust shall, when making such an application, disclose in writing to the Trust whether they are related to a Governor or holder of any office within the Trust. Failure to disclose such a relationship shall disqualify a candidate and, if appointed, render him or her liable to dismissal.

7.4.2 A Governor shall disclose to the Assistant Chief Executive any relationship between themselves and a candidate of whose candidature that Governor is aware. The Assistant Chief Executive shall report any such disclosure to the Council of Governors and the Board of Directors.

7.4.3 On election or appointment, a Governor should disclose to the Assistant Chief Executive whether they are related to any other Governor or holder of any office under the Trust.

7.4.4 No formal definition of relationship is made. In considering whether a disclosure is required, influence rather than immediacy of the relationship is more important. If Governors have any doubt about the relevance of a relationship, this should be discussed with the Assistant Chief Executive.

7.4.5 Where the relationship of a Governor is disclosed, Paragraph 6.2.5 of these Standing Orders shall apply.

### 8 Miscellaneous

8.1 It is the duty of the Assistant Chief Executive to ensure that existing Governors and all new Governors are notified of and understand their responsibilities within these Standing Orders.

### 9 Review of Standing Orders

These Standing Orders shall be reviewed by the Council of Governors at least once ~~in each financial year every three years and~~ shall be amended subject to the provisions of Paragraph 7.4 of these Standing Orders. The requirement for review extends to all documents having the effect as if incorporated in these Standing Orders.

### 10 Variation and amendment of Standing Orders

These Standing Orders shall be amended only if:

10.1 A notice of motion under Paragraph 4.7 of these Standing Orders has been given; and

10.2 no fewer than two-thirds of the Council of Governors vote in favour of amendment; and

10.3 the variation proposed does not contravene a statutory provision or a direction made by NHSI.

---

## ANNEX 4: ADDITIONAL PROVISIONS – COUNCIL OF GOVERNORS

[See Paragraph 22 of the Constitution]

### Membership of the Council of Governors - further eligibility provisions

1. In addition to the provisions set out in Paragraph 16.1 of the Constitution, an individual shall not become or continue to be a Governor if:
  - 1.1 they have within the preceding five years been dismissed, otherwise than by reason of redundancy or ill health, from any paid employment with a Health Service Body, a private or independent care commissioner or provider or other public service body;
  - 1.2 they are a person whose tenure of office as Chair, or member, or Governor or Director of a Health Service Body or other public service body has been terminated on the grounds that their appointment is not in the interests of the service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
  - 1.3 they are a Director or the Trust Secretary of the Trust, or a Governor, Director or Secretary of another Health Service Body;
  - 1.4 they have had their name removed or suspended, other than by reason of withdrawal, from any list prepared under the 2006 Act and/or any related subordinate legislation or who has otherwise been suspended or disqualified from any healthcare profession and has not subsequently had their name included in such a list or had their suspension lifted or qualification reinstated;
  - 1.5 they are incapable by reason of mental disorder, illness or injury of carrying out their functions as a Governor and it is anticipated that such incapacity will continue for a period of six months or the remainder of their tenure of office;
  - 1.6 they have within the preceding five years demonstrated aggressive or violent behaviour on Trust premises or another Health Service Body and following such behaviour has been asked to leave, has been removed or excluded from the premises under either the Trust's Policy for Withholding Treatment from Violent and Abusive Patients or Visitors (as amended from time to time) or the Health Service Body's equivalent policy;
  - 1.7 they have been confirmed as a habitual or vexatious complainant in accordance with the Trust's Concerns and Complaints Policy (as amended from time to time);
  - 1.8 they refuse to confirm that they will abide by the Trust's Code of Conduct for Governors (as amended from time to time);
  - 1.9 they refuse without reasonable cause to undertake peer review and/or any training which the Trust and/or the Council of Governors requires all Governors to undertake;
  - 1.10 they are a member of a local authority Overview and Scrutiny Committee covering health matters;

- 1.11 they are an officer or member of the governing body of Healthwatch or its successor bodies;
  - 1.12 they have previously or are currently subject to a Sex Offenders Order and/or their name is included in the Violent and Sex Offenders Register;
  - 1.13 they are the spouse, partner, parent or child of a member of the Board of Directors of the Trust;
  - 1.14 they fail to or indicates that they are unwilling to act in the best interests of the Trust in accordance with the Principles of Public Life set out by the Committee on Standards in Public Life and incorporated in the Trust's Code of Conduct for Governors, as amended from time to time. In fulfilling this role, the Trust acknowledges that the Governor is representing the interests of their members or partner organisation in the local health economy. However, acting in the best interests of the Trust and engaging in constructive debate and challenge on behalf of the constituency a governor represents are not mutually exclusive. Only actions deemed by the Council of Governors or the Board of Directors to be malicious or destructive will be viewed as failing to act in the best interests of the Trust; or
  - 1.15 they fail to abide by the values and behaviours of the Trust.
- 2. Termination of tenure and removal of a Governor**
- 2.1 A Governor shall cease to hold office if
    - 2.1.1 they resign by giving notice in writing to the Assistant Chief Executive
    - 2.1.2 they fail to attend two consecutive meetings unless the Assistant Chief Executive is satisfied that:
      - 2.1.2.1 the absences were due to reasonable cause; and
      - 2.1.2.2 they will be able to start attending meetings within such a period that other Governors consider reasonable.
  - 2.2 A Governor may be removed by the Council of Governors by a resolution by not less than three-quarters of the remaining Governors present at that meeting on the following grounds:
    - 2.2.1 they have committed a serious breach of the Code of Conduct for Governors; or
    - 2.2.2 they have acted in a manner detrimental to the interests of the Trust; and
    - 2.2.3 the Council of Governors consider it is not in the best interests of the Trust as defined in Paragraph 1 above, for him or her to continue as a Governor.
  - 2.3 Where a person has been elected or appointed to be a Governor and becomes disqualified from office under Paragraph 16 of the Constitution or Paragraph 1 above, the individual shall notify the Assistant Chief Executive 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 the Governor disqualified.

- 2.4 If it comes to the notice of the Assistant Chief Executive that the Governor is disqualified at the time of their appointment or later, the Assistant Chief Executive shall immediately declare that the individual in question is disqualified and give notice to them in writing to that effect as soon as practicable and in any event within 14 days of the date of the said declaration. The Assistant Chief Executive's decision is final.

### 3. Council of Governor Vacancies

- 3.1 Where a Governor's term of office terminates for one of the reasons set out in paragraphs 2.1 or 2.2, Elected Governors may be replaced in accordance with paragraphs 3.2 and 3.3 below. In the case of Appointed Governors, the Trust shall invite the relevant appointing body to appoint a new Governor to hold office for the remainder of the term of office within 30 days of the vacancy having arisen.
- 3.2 At the discretion of the Trust, where an Elected Governor ceases to hold office during their term of office, the Trust may offer the candidate who secured the second highest number of votes in the last election for the Constituency (or Class of Constituency, as the case may be) in which the vacancy has arisen the opportunity to assume the vacant office of Governor for the unexpired balance of the former Governor's term of office.
- 3.3 If the candidate who secured the second highest number of votes in the last election for the Constituency (or Class of Constituency, as the case may be) in which the vacancy has arisen is not available or willing to fill the vacancy, an election will then be held in accordance with the Election Scheme save that if an election is due to be held within six months of the vacancy having arisen the office will stand vacant until the next scheduled election unless by so doing this causes the aggregate number of Governors who are Public Governors and Patient Governors to be less than half the total membership of the Council of Governors. In that event an election will be held in accordance with the Election Scheme as soon as reasonably practicable.
- 3.4 The Returning Officer under the Election Scheme shall maintain a record of votes cast at each election under the Election Scheme for the above purposes and the Returning Officer shall conduct or shall oversee the conduction of the process set out in paragraphs 3.2 and 3.3 above.
- 3.5 No defect in the election or appointment of a Governor, nor any deficiency in the composition of the Council of Governors shall affect the validity of any act or decision of the Council of Governors.

## ANNEX 5: FURTHER PROVISIONS

### Appendix A – Restriction on Membership

(See Paragraph 11.4 of the Constitution)

#### 1. Disqualification from membership of the Trust

- 1.1 A person may not be a Member of the Trust if they are under 12 years of age at the time of their application to become a Member.
- 1.2 A person may not become or remain a Member of the Trust if he or she is ineligible under paragraphs 7.1, 8.1, or 10.1 of this Constitution to be a Member.
- 1.3 A person may not become or remain a Member of the Trust if during the five years prior to their application, he or she has demonstrated aggressive or violent behaviour at any Trust Hospital or towards any person working for a Health Service Body and following such behaviour they has been asked to leave, has been removed or excluded from any Trust Hospital or other Health Service Body establishment under either the Trust's Policy for Withholding Treatment from Violent and Abusive Patients or Visitors (as amended from time to time) or other Health Service Body's equivalent policy.
- 1.4 A person may not become or remain a Member of the Trust if they have been confirmed as a habitual or vexatious complainant in accordance with the Trust's Concerns and Complaints Policy (as amended from time to time).
- 1.5 A person may not remain a Member of the Trust if the Council of Governors resolves (in accordance with the procedure for expulsion from membership of the Trust set out at Paragraph 2 below) that for reasonable cause their so doing would, or would be likely to:
  - 1.5.1 prejudice the ability of the Trust to fulfil its principal purpose as defined by this Constitution or otherwise to discharge its duties and/or functions; or
  - 1.5.2 harm the Trust's work with other persons or bodies with whom it is engaged or may be engaged in the provision of goods or services; or
  - 1.5.3 adversely affect public confidence in the goods or services provided by the Trust; or
  - 1.5.4 otherwise bring the Trust into disrepute.
- 1.6 It is the responsibility of each Member to ensure their eligibility at all times and not the responsibility of the Trust to do so on their behalf. A Member who becomes aware of their ineligibility shall inform the Assistant Chief Executive as soon as practicable and that person shall thereupon be removed forthwith from the register of Members and shall cease to be a Member.
- 1.7 Where the Trust has reason to believe that a Member is ineligible for membership under the provisions of this Constitution or may be disqualified for membership under the provisions of this Constitution, the Assistant Chief Executive shall carry out reasonable enquiries to establish if this is the case.



- 1.8 Where the Assistant Chief Executive considers that there may be reasons for concluding that a Member or an applicant for membership may be ineligible or be disqualified for membership, they shall advise that individual of those reasons in summary form and invite representations from the Member or applicant for membership within 28 days or such other reasonable period as the Assistant Chief Executive may in their absolute discretion determine. Any representations received shall be considered by the Assistant Chief Executive and they shall make a decision on the Member's or applicant's eligibility or disqualification as soon as reasonable practicable and shall give notice in writing of that decision to the Member or applicant within 14 days of the decision being taken.
- 1.9 If no such representations are received within the said period of 28 days or longer period (if any) permitted under the preceding paragraph, the Assistant Chief Executive shall be entitled nonetheless to proceed and make a decision on the Member's or applicant's eligibility or disqualification notwithstanding the absence of any such representations from him/her. The Assistant Chief Executive's decision is final.
- 1.10 Upon a decision being made under the Paragraphs 1.8 or 1.9 above that the Member is ineligible or disqualified for membership, the Member shall be removed from the register of Members immediately and shall thereupon cease to be a Member.
- 1.11 Notwithstanding the foregoing paragraphs, if it appears to the Assistant Chief Executive that an individual no longer wishes to be a Member of the Trust and, after reasonable enquiries made in accordance with a process approved by the Council of Governors the individual fails to demonstrate that they wish to continue to be a Member of the Trust, the individual shall cease to be a Member of the Trust and their name shall be removed from the register of Members of the Trust.

## **2. Expulsion from membership of the Trust**

- 2.1 A Member may be expelled by a resolution approved by not less than two-thirds of the members of the Council of Governors present and voting at a meeting of the Council of Governors. The following procedure is to be adopted:
- 2.1.1 any Member or Director may complain to the Assistant Chief Executive that another Member has acted in a way detrimental to the interests of the Trust, or is otherwise disqualified as set out in Paragraph 1 above.
- 2.1.2 if a complaint is made, the Council of Governors shall itself consider the complaint, having taken such steps as it considers appropriate, to ensure that the Member's and complainant's points of view are heard and may either:
- 2.1.2.1 dismiss the complaint and take no further action; or
- 2.1.2.2 arrange for a resolution of the Council of Governors to expel the Member complained of to be considered at the next meeting of the Council of Governors.

### **3. Termination of membership**

A Member shall cease to be a Member on:

- 3.1 death
- 3.2 resignation by notice in writing to the Assistant Chief Executive
- 3.3 ceasing to fulfil the requirements of paragraphs 7.1, 8.1 or 10.1 of the Constitution, as the case may be
- 3.4 being disqualified pursuant to Paragraph 1 above
- 3.5 being expelled pursuant to Paragraph 2 above.

## Appendix B – Dispute Resolution Procedure

(See Paragraph 43 of the Constitution)

1. The Council of Governors and the Board of Directors are committed to develop and maintain a constructive and positive relationship. The aim at all times is to resolve any potential or actual differences of opinion quickly, through discussion and negotiation.
2. In the event of a dispute arising between the Council of Governors and the Board of Directors, the Chair (or the Vice Chair if the dispute involves the Chair) will endeavour to resolve the dispute informally, through discussions with the Governors and Directors, to the reasonable satisfaction of both parties.
3. Failing resolution under Paragraph 2 of this Annex, the Chair (or the Vice Chair if the dispute involves the Chair) shall appoint and chair a panel comprising the Chief Executive and another Director and two Governors. The Council of Governors shall nominate the two Governors to the panel through the office of the Assistant Chief Executive.
  - 3.1 The panel will review the dispute and make recommendations to the Council of Governors and the Board of Directors.
  - 3.2 The panel may recommend referring the dispute to external mediation, in which case a professional mediator shall be appointed by the Centre for Dispute Resolution or such organisation as the panel shall agree.
    - 3.2.1 All negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence on a without prejudice basis.
    - 3.2.2 The costs and expenses of the mediation will be met by the Trust.
4. If the Council of Governors and the Board of Directors reach agreement on the resolution of the dispute, that agreement shall be made in writing and shall be binding upon both parties.
5. If the Council of Governors and the Board of Directors are unsuccessful in resolving the dispute to the reasonable satisfaction of both parties, the Chair (or the Vice Chair if the dispute involves the Chair) shall refer the dispute to the Board of Directors, whose decision shall be final.
6. Nothing in this procedure shall preclude
  - 6.1 the Lead Governor, on behalf of the Council of Governors approaching NHS Improvement if they believe a matter merits a referral, and
  - 6.2 any party from referring any dispute to a court of competent jurisdiction in England or Walesalthough such actions should be considered a last resort.