

Council of Governors 3 Feb 2018 - all documents

	Document	Page
1	Council of Governor Agenda 03.02.18	3
2	Paper 2.0 Council of Governor Minutes 01.11.17	5
3	Paper 3.0 Council of Governor Actions Log February 2018	17
4	Paper 4.0 Council of Governors' Declaration of Interests	19
5	Paper 6.1 Volunteering and Education 03.02.18	23
6	Paper 6.2 Membership Development and Communications	25
7	Paper 6.3 Learning from Patient Experience 03.02.18	27
8	Paper 7.0 FINAL Nomination Committee Report to Council of	31
9	Paper 7.0 FINAL Nomination Committee Minutes 03.01.18	33
10	Paper 7.1 FINAL Rem Comm Report to Council of Governors	37
11	Paper 7.1 FINAL Rem Com Minutes 03.01.18	41
12	Paper 8.0 FINAL HHFM report to CoG 03.02.18	43
13	Paper 9.0 Proposed amendments to HDFT Constitution	49
14	Paper 9.0 App A DRAFT HDFT Revised Constitution Feb 2018	55
15	Paper 9.0 App B DRAFT HDFT Constitution Review Working	159

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COUNCIL OF GOVERNORS' MEETING

A meeting of the Harrogate and District NHS Foundation Trust Council of Governors will take place on Saturday, 3 February 2018 in The Hatcher Room (next to Constance Green Hall), St Aidan's Church of England High School, Oatlands Drive, Harrogate, HG2 8JR

Start: 10.45am Finish: 1.00pm

(Private discussion for Governors and the Board will commence at 10.15am)

AGENDA				
Time	Item No.	Item	Lead	Paper No.
10.45	1.0	Welcome and apologies for absence <i>Welcome to the public and setting the context of the meeting</i>	Mrs A Schofield, Chairman	-
10.45	2.0	Minutes of the meeting held on 1 November 2017 <i>To review and approve the minutes</i>	Mrs A Schofield, Chairman	2.0
10.50	3.0	Matters arising and review Action Log <i>To provide updates on progress of actions</i>	Mrs A Schofield, Chairman	3.0
10.55	4.0	Declarations of Interest <i>To declare any interests relevant to the agenda and to receive any changes to the register of interests</i>	Mrs A Schofield, Chairman	4.0
10.55	5.0	Chairman's verbal update on key issues <i>To receive the verbal update for consideration</i>	Mrs A Schofield, Chairman	-
11.05	6.0	Governor Sub-Committee Reports <i>To receive the reports for comment</i>	Mrs A Schofield, Chairman	
	6.1	Volunteering and Education Group	Mrs Pat Jones, Public Governor	6.1
	6.2	Membership, Development and Communications Group	Ms P Allen, Deputy Chair of the Council of Governors/ Public Governor	6.2
	6.3	Patient and Public Involvement:		
		• Learning from Patient Experience Group	Miss S Eddleston, Public Governor	6.3
	6.4	Annual Plan update from Governors	Governors	-
	6.5	Update on Quality Account Process	Mrs J Foster, Chief Nurse	-

11.25	7.0	Report from the Nominations Committee <i>To receive the report for comment and approve:</i> - <i>Minutes of the meeting held 3 January 2018</i>	Mrs A Schofield, Chairman	7.0
	7.1	Report from the Remuneration Committee <i>To receive the report for comment and approve:</i> - <i>Minutes of the meeting held 3 January 2018</i>	Mrs A Schofield, Chairman	7.1
11.35	8.0	Presentation – Update on the establishment of the Trust’s wholly-owned subsidiary company to deliver Estates and Facilities services	Mr R Harrison, Chief Operating Officer Mr C Thompson, Non-Executive Director	8.0
11.50	9.0	HDFT Constitution <i>To receive the report for comment and approve</i>	Mrs A Schofield, Chairman	9.0
11.55 am - 12.05 – Break				
12.05	10.0	Chief Executive’s Strategic and Operational Update, including Integrated Board Report <i>To receive the update and report for comment</i>	Dr R Tolcher, Chief Executive	10.0
12.25	11.0	Question and Answer Session for members of the public and Governors <i>To receive and respond to questions from the floor relating to the agenda</i>	Mrs A Schofield, Chairman	-
12.45	12.0	Non-Executive Directors’ Feedback: <i>To receive and respond to questions from the floor</i>	Non-Executive Directors	-
12.50	13.0	Any other relevant business not included on the agenda <i>By permission of the Chairman</i>	Mrs A Schofield, Chairman	-
12.55	14.0	Member Evaluation	Mrs A Schofield, Chairman	-
13.00	15.0	Close of meeting	Mrs A Schofield, Chairman	-

**Date and time of next meeting –
Wednesday, 2 May 2018 at 5.15 pm (public meeting commences at 5.45 pm)
St. Aidan’s Church of England High School, Oatlands Drive, Harrogate, HG2 8JR**



Council of Governors' Meeting

Minutes of the public Council of Governors' meeting held on 1 November 2017 at 17:45 hrs
at St. Aidan's Church of England High School, Oatlands Drive, Harrogate, HG2 8JR

Present:

- Mrs Angela Schofield, Chairman
- Ms Pamela Allen, Public Governor/Deputy Chair of Council of Governors
- Dr Pamela Bagley, Stakeholder Governor
- Dr Sally Blackburn, Public Governor
- Mrs Angie Colvin, Corporate Affairs and Membership Manager
- Mr Jonathan Coulter, Finance Director/Deputy Chief Executive
- Ms Clare Cressey, Staff Governor
- Mr Tony Doveston, Public Governor
- Mrs Emma Edgar, Staff Governor
- Mrs Jill Foster, Chief Nurse
- Ms Carolyn Heaney, Stakeholder Governor
- Mrs Jane Hedley, Public Governor
- Mrs Pat Jones, Public Governor
- County Councillor John Mann, Stakeholder Governor
- Mr Phillip Marshall, Director of Workforce and Organisational Development
- Mr Neil McLean, Non-Executive Director
- Mr Peter Pearson, Public Governor
- Mrs Katherine Roberts, Company Secretary
- Mrs Laura Robson, Non-Executive Director
- Dr Daniel Scott, Staff Governor
- Dr David Scullion, Medical Director
- Mrs Maureen Taylor, Non-Executive Director
- Mr Chris Thompson, Non-Executive Director
- Mr Steve Treece, Public Governor
- Mr Ian Ward, Non-Executive Director
- Mrs Lesley Webster, Non-Executive Director

In attendance:

- 5 members of the public
- Mr Mike Forster, Operational Director, Long Term and Unscheduled Care Directorate.
- Dr Matt Shepherd, Consultant and Lead Clinician, Emergency Medicine / Clinical Lead for Informatics.

1. Welcome and apologies for absence

Mrs Schofield was delighted to see members of the public at the meeting and offered them a warm welcome. She hoped they would find the meeting interesting and informative and welcomed questions for Governors or any member of the Board in attendance. She asked that any questions for item 9.0 on the agenda to be submitted during the break.

She stated that it was an enormous honour and privilege to join an organisation with exceptional values and achievements and that she looked forward to being part of a great team. She also paid tribute to Mrs Dodson and thanked her for her chairmanship over the last nine years.

Mrs Schofield introduced newly appointed Governors: Dr Bagley, Stakeholder Governor from Bradford University, Ms Heaney, Stakeholder Governor for Patient Experience, Cllr Mann, Stakeholder Governor from North Yorkshire County Council and new Non-Executive Director, Mrs Laura Robson.

She also welcomed Mr Forster and Dr Shepherd who would be presenting the Trust's winter plans at item 7.0 on the agenda.

Apologies had been received from Mrs Cath Clelland, Public Governor, Mrs Liz Dean, Public Governor, Miss Sue Eddleston, Public Governor, Mrs Beth Finch, Stakeholder Governor, Mr Rob Harrison, Chief Operating Officer, Cllr. Phil Ireland, Stakeholder Governor, Mrs Zoe Metcalfe, Public Governor, Dr Ros Tolcher, Chief Executive, and Dr Jim Woods, Stakeholder Governor.

2. Minutes of the last meeting, 2 August 2017

The minutes of the last meeting on 2 August were agreed as a true and accurate record.

2.1 Minutes of the Annual Members' Meeting held on 21 September 2017

The minutes of the Annual Members' Meeting on 21 September were presented for information. Mrs Schofield asked for any amendments to be forwarded to Mrs Roberts; the minutes would then be ratified at the next Annual Members' Meeting in 2018.

3. Matters arising and review of action log

Item 1 – Mr Marshall provided a further update on the Global Health Exchange Programme. He was pleased to announce that four nurses had arrived from India and had commenced a programme of training to prepare them for their exams and professional registration. A further 26 offers of employment had been made and at least ten additional nurses would be expected to join the Trust before April 2018. The new nurses were being fully supported by the Recruitment Team, fellow nursing staff, and an NHS England funded facilitator, who had emailed the Trust to thank staff for the lovely welcome and support offered.

Item 2 - Mrs Colvin confirmed she had now received details of the Quality of Care Teams in each Directorate and was collating further detailed information. A full review of Governors assigned to Quality of Care Teams would take place and this would include new Governors joining the Council in January 2018 following the elections.

Item 3 – Non-Executive Director’s objectives had been circulated to Governors so this action was now complete.

Item 4 – An update had been received from the Estates Team who had reviewed arrangements and hooks had now been fitted to the back of doors in the public toilets. This action was now complete.

Item 5 – Upon clarification of the question submitted to the last meeting, Mrs Holmes had been advised to contact the Yorkshire Ambulance Service direct in relation to the role and responsibilities of the First Responder.

There were no other matters arising.

ACTION:

- **Mr Marshall would continue to provide further updates on the Global Health Exchange Programme at future meetings.**
- **Review of Governors assigned to Quality of Care Teams in early 2018**

4. Declaration of interests

Mrs Schofield requested that a slight amendment be made on her interest declared to, ‘Volunteer with Supporting Older People (charity)’.

There were no additional declarations of interests received from Governors than those listed on Paper 4.0.

5. Chairman’s verbal update

Mrs Schofield highlighted that it was the last meeting in their role as Governors for Dr Blackburn and Mrs Hedley who had completed two terms of office and Mr Pearson who had decided not to re-stand. She thanked each Governor for their commitment and support to the Trust.

Mrs Schofield notified the Council that Mrs Hill had resigned with immediate effect and therefore a vacancy for a public Governor for Knaresborough and East District would remain until the By-Election in spring 2018.

Finally, Mrs Schofield reported that Mr McLean had informed the Board that he would not be seeking a second term of office when his first term expired on 30 April 2018 as he was re-locating. A Nominations Committee would be held in early January 2018 to instigate the recruitment process for a new Non-Executive Director.

There were no questions for Mrs Schofield.

6. Governor Sub-Committee Reports

Mrs Schofield moved on to clarify the role of the two formal sub committees and the Patient and Public Involvement, Learning from Patient Experience Group. She said how important it was for the general public to hear about the work of these sub-committees and thanked Governors for their commitment and involvement.

6.1 Volunteering and Education

The report from the Volunteering and Education Governor Working Group, chaired by Mrs Hedley, had been circulated prior to the meeting and was taken as read.

Mrs Hedley highlighted the progress of the Apprenticeship Scheme and praised the Trust's Work Experience Programme. She was delighted to report that excellent feedback was being received regarding both the Work Experience and Education Liaison Programmes and she congratulated the Corporate Team for their hard work.

Finally, Mrs Hedley stated that this would be her last report and wished Mrs Jones all the best in taking over as Chair of the Group.

There were no questions for Mrs Hedley.

6.2 Membership Development and Communications

The report from the Membership Development and Communications Governor Working Group, chaired by Ms Allen, had been circulated prior to the meeting and was taken as read.

Ms Allen highlighted the Governor Elections and encouraged members to use their vote for the Harrogate and surrounding villages, Wetherby and Harewood, and Rest of North Yorkshire and York seats. A By-Election would take place in the spring of 2018 for the vacant seats covering Ripon and West District, the Rest of England, and Knaresborough and East District. The election results were expected on 4 December.

There were no questions for Ms Allen.

6.3 Patient and Public Involvement – Learning from Patient Experience

The report from Miss Eddleston, on the last meeting of the Learning from Patient Experience Group, had been circulated prior to the meeting and was taken as read.

There were no questions in relation to the paper to pass to Miss Eddleston who was unable to attend the meeting.

7. Presentation – Winter Planning

Mrs Schofield welcomed Mr Forster and Dr Shepherd to present on Winter Planning and the Emergency Care Winter Challenge.

Dr Shepherd explained that the Emergency Department (ED) and the hospital continued to receive more acutely ill or injured patients each year and provided statistical information on monthly ED attendances and admission percentages. He described some of the issues for patients when they remained in ED for longer than necessary including patients becoming frustrated and uncomfortable, and he provided data on the Trust's 4-hour national standard results versus the rest of England. He was proud to report that the Trust was working hard to maintain such a high level of service.

Mr Forster highlighted that winter was on its way however, many challenges were now the same all year round and maintaining an efficient patient flow was as important as ever. He described some of the work underway including, education around avoidable attendance to ED, having alternatives such as GP Out of Hours and NHS 111, support to improve delayed transfers of care, and good infection prevention and control.

He went on to summarise what was different about winter to any other time of the year including sustained cold spells causing emergency admissions, Norovirus which caused diarrhoea and vomiting, and the impact of the Christmas and New Year bank holiday periods. Further comparable statistical data was provided for the number of patients discharged covering normal weekends over the period 1 September to 31 March for years 2014 – 2017 and for last Christmas and New Year period 23 December 2016 to 8 January 2017. This demonstrated an increase in discharges on the last day before Christmas with a steady increase throughout the following two weeks; a national picture replicated across the country and highlighted in the media

Mr Forster talked about this year's planned approach for the period 18 December 2017 to 7 January 2018 including enhanced and weekend cover, consultant support for junior doctors and an 'Every Hour Matters Week' commencing 2 January. The Trust would be holding a week long focus on inpatient care from 2 to 7 January 2018. The main aim of the week would be to ensure the health and social care system supported acute services to recover after two long bank holidays at Christmas and New Year aiming to achieve outcomes in patient flow, discharge and quality.

Mrs Schofield took questions from the floor.

Mrs Hedley asked how clinicians would react to family and carers enquiring about sepsis as highlighted at the recent Medicine for Members' Event in October. Dr Shepherd assured Governors that colleagues would respond positively to any family member or carer's concerns of sepsis and act accordingly.

At this stage in the meeting Mrs Schofield took the question submitted from Ms Heaney, Public Governor:

“In the context of winter planning and preparedness, could you advise on rates of uptake of flu vaccine amongst front line staff?”

Mr Marshall reported that approximately 35% of front line staff had been recorded as being vaccinated. The process of data inputting was still ongoing and information about staff vaccinated in the Trust's wider community areas would take longer to be returned for inclusion in the update data. For comparison, this percentage was higher than at this time last year and the target was in excess of 70%

Mrs Edgar referred to the presentation statistics and asked why the number of discharges on a normal day could not reflect the same as the higher rate reported on Christmas Eve. Mr Forster stated that this was a national trend; agencies wished to support patients to be at home for Christmas but some readmissions usually followed the Christmas.

In response to Dr Scott's comment regarding the dip in ED attendances in the month of December, Dr Shepherd explained that media headlines could have an impact however, further education was required to provide people with alternative options to attending ED.

Ms Cressey asked where the staff were coming from to provide enhanced and weekend cover. Mr Forster confirmed that staff would be called at home to ask if they could return to work to provide support. These plans had been in place for some time to give staff as much notice as possible. There had been a good response from consultants to support junior colleagues in the plans.

Mr Ward asked if New Year's Eve celebrations and alcohol were an issue for ED. Dr Shepherd confirmed it was but probably less of an issue than in some neighbouring areas. However but staff were planning for it to be busy over the festive period.

Cllr Mann asked if the introduction of the GP service was a factor in ED's success and, if so, would other hospitals consider introducing such a service. Dr Shepherd confirmed that primary care input based in ED was fairly widespread and was acknowledged as good practice. He described the benefits and improvements in communication of providing such a service.

Mrs Schofield thanked Mr Forster and Dr Shepherd for an interesting and informative presentation and for their leadership of such a high performing ED.

8. Chief Executive's Strategic and Operational Update, including Integrated Board Report

In Dr Tolcher's absence, Mr Coulter presented the following headlines:

- **Performance**
 - Operational and quality performance
 - Finances
- **Looking ahead**
 - Planning for 2018/19

Operational and quality performance

Taking a look at the summary of indicators at September 2017, Mr Coulter referred to a snapshot of Quality, Operational Performance and Finance and Efficiency indicators from September 2015 to date. Data from Quarter 2 showed the Trust performing well in relation to referral to treatment times, the A&E four-hour standard, and cancer and diagnostic waits. Mr Coulter acknowledged the ongoing financial challenges shown as red and amber. He confirmed that the recovery plan was being closely managed.

Mr Coulter highlighted that the latest Care Quality Commission national Emergency Department Patient Survey results showed that patients ranked Harrogate District Hospital joint first out of 136 participating trusts. The National Cancer Patient Survey also ranked the Trust as one of the best in the country. These were achievements to be proud of.

Included in his presentation were some of the areas where the Trust was not doing so well. There were no reported cases of hospital acquired C.difficile at the last meeting in August however, there had been two cases reported in September; the first hospital acquired cases reported in 2017/18. The national patient safety thermometer, harm free percentage for September was 96.3%, above the latest national average. The latest published data on incident reporting showed that the Trusts low:high harm reporting ratio was 22 - this was an improvement on the last publication but the Trust remained in the bottom 25% of trusts nationally. Delayed transfers of care decreased to 5.0% when the snapshot was taken in September, but remained above the maximum threshold of 3.5%; this remained a significant concern going into winter.

Finances

Mr Coulter confirmed the Trust was forecasting a year end deficit of £5.5m however, there was a lot of work underway and measures introduced to turn this around. Mr Coulter highlighted some of these measures including the focus on reducing agency costs, recruitment freeze for non-frontline staff, and discretionary spend controls such as training. He emphasised that all measures had been through a quality impact assessment and some of the decisions were often difficult ones to make, but the Trust had to take action to deliver the financial plan.

Planning for 2018/19

Mr Coulter summarised the planning arrangements for 2018/19; the process for assessing the level of demand both in the hospital and the community, workforce capacity and supply, physical capacity and constraints, the financial framework and new business development opportunities. .

Programmes of collaborative work across West Yorkshire and Harrogate were being progressed to improve services and make financial savings including shared mandatory training across trusts, shared digital systems, and central procurement arrangements.

Finally, Mr Coulter went on to talk about the top scoring risks:

The top scoring strategic risks for the Trust related to:

- Lack of medical, nursing and clinical staff.
- Ability to deliver integrated models of care.
- Financial risks.

The top scoring operational risks in the organisation were:

- Risks to service delivery due to lack of experienced registered nurses for recruitment to vacancies.
- Risk of financial deficit and impact on service delivery due to failure to deliver the Trust's annual plan.

Mrs Schofield thanked Mr Coulter for his update and opened up questions from the floor.

Cllr Mann asked how the Trust could discourage the preference for experienced registered nurses to work as locums. Mr Coulter explained that work was ongoing on recruitment strategies and collaborative work across the six trusts to manage the market and encourage shared rates of pay.

Mr Ward acknowledged that the first half of the financial year had been very challenging and asked if the situation was starting to turnaround.

Mr Coulter was happy to report that activity during October was higher than September which was helpful, but he could not say any more than that at this stage.

There were no further questions for Mr Coulter.

9. Question and Answer session for members of the public and Governors

Mrs Schofield moved to the tabled questions submitted prior to the meeting and during the break.

Mrs Hedley, Public Governor, had submitted the following question:

“Please could we have further details and a schedule completion date for the renovation of the Harrogate Hospital reception area?”

Mr Coulter confirmed there would be three schemes taking place at the front of the hospital: the creation of a primary care space next to ED, self-check-in kiosks and reception desk re-arrangement, and the coffee shop. The schemes would take place in that order and it was hoped they would be finished by spring 2018.

Miss Eddleston, Public Governor, had submitted the following question:

“It had now been a few weeks since the new self-check-in kiosks for patients attending Outpatients had been operational. Two machines were sited in the main foyer, allowing patients to check in on their arrival, rather than waiting in

a queue at the Outpatient desk. I believe, volunteers provide assistance to patients to use these machines.

Since its inception, have the patients found this to be a greater benefit to them. Has there been any feedback to the Trust with regards to these new machines. I believe this is hoped also to be implemented at Ripon Hospital, do we have a date for when that is going to happen?"

Ms Eddleston was not present at the meeting, however Mrs Schofield read out a response from Mr Robin Pitts, Clinical Information Management & Technology Project and Change Manager, Clinical IM&T Safety Officer, Paediatric Advanced Nurse Practitioner –

Since 18 September 2017, in addition to the Outpatient Appointment desk, three Outpatient Appointment self-check-in kiosks were in situ at the front of the hospital. Volunteers would be on hand to provide support and advice to anyone who required it. Kiosks would also be installed in Therapy Services and at the Strayside entrance in November. A further kiosk would be installed at Ripon Community Hospital. Unfortunately, preparation and installation works at Ripon would be undertaken by a third party and we therefore can't yet provide a date for completion.

The kiosks at the front of the hospital were currently in a temporary location, with a revamp of the main entrance planned that would give them a permanent home. Despite the temporary location the kiosks had successfully reduced queues at the Outpatient Appointment desk and allowed the staff on the desk more time to provide follow up appointments for the patients that need them. To date over 4,200 patients had used the kiosks to record their arrival equating to about 140 patients per day and lots of positive feedback had been received.

Mrs Edgar, Staff Governor, informed fellow Governors that, as a clinician, she found it useful to see which patients had checked in.

Mr McLean had used the check-in desks and found them to be efficient and instantaneous.

Mrs Allen, Public Governor had also used the kiosks and provided positive feedback.

Mr Doveston, Public Governor, submitted the following question:

"Some two years ago the Trust won its business development bid to provide 0-19 children's services for North Yorkshire, Durham, Darlington and Middlesbrough. Could the Deputy Chief Executive now update the meeting on the success or otherwise of this initiative."

Mr Coulter confirmed that Children's Services in Darlington, Durham and Middlesbrough in addition to North Yorkshire had been very successful to date and were delivering a confident and good service within budget and feedback was positive. The Trust was now the biggest provider of children's services in the country and there had been opportunities to provide vaccination and immunisation services in different areas.

Mr McLean endorsed Mr Coulter's comments and acknowledged the challenges faced by such a remote service.

Mr Treece, Public Governor, submitted the following questions:

“What is the Trust’s response to the recent National Audit Office report on the Wannacry Cyber-attack?”

Mr Coulter provided a response from Mr Paul Nicholas, Deputy Director of Performance and Informatics –

The National Audit Office report was helpful in providing a clearer picture of the timing, scale and impact of the cyber-attack on the NHS that took place in May.

The Wannacry attack had no impact on clinical services at Harrogate, although the Trust did take down email as a precautionary measure to protect the network. The Trust takes cyber security very seriously focussing key skilled resource on keeping the network and IT systems safe and secure.

In addition, Mr Coulter added that Internal Audit had reviewed the Trust’s position to cyber security and the report was awaited.

“What planning is the Trust doing to respond to additional housing developments in the Wetherby, North Leeds and associated areas in terms of funding and demand impacts.”

Mr Coulter confirmed the Trust was aware of the additional housing developments and he referred to the Chief Executive’s update at the last public Council of Governors’ meeting in August. Mr Coulter viewed such developments positively in terms of increasing the catchment population and continued sustainability for the Trust however, he acknowledged that it was important for commissioners to receive appropriate funding for the increase in population. In terms of capacity, the Trust already provided outreach services in Alwoodley and Wetherby.

Mr Matt Walker, Parliamentary Spokesperson, Harrogate and Knaresborough Liberal Democrats, submitted the following question:

“Could you please describe the plans you have in place to try to manage the delayed transfer of care patients over the winter period.”

In addition to the earlier presentation, Mr Forster explained delayed transfers of care in more detail and some of the reasons for such delays including, the choice of where a patient is offered to go after leaving hospital may not be the preferred choice, or it may be that the patient is waiting for a package of care. Plans included focussing on discharge planning at admission, so starting conversations and planning expectations early. The Trust’s policy provided staff with a framework and guidance when meeting discharge challenges.

Mrs Schofield thanked everyone for their questions.

ACTION:

- **Confirm outcome of Internal Audit cyber security report.**

10. Finance Committee update

Mrs Taylor, Non-Executive Director and Chair of the Finance Committee, provided an update on the Finance Committee; a Committee of the Board of Directors with

oversight of the development and delivery of the financial plan of the organisation. She confirmed that, in addition to herself, Mr Ward, Mrs Webster, Mr Coulter, Mr Harrison, Mr McKie and Mr Nicholas were members of the group. Mr Thompson, Chair of the Audit Committee, attended as an observer and a Governor was also invited to observe.

She described the role of the Committee in detail; to gain assurance that systems and processes were in place and to look forward at the functions and methodologies for future planning. The committee met six times a year, but would arrange additional meetings if they felt it was required.

The Committee last met on 13 October and, given the financial position of the Trust, they went through the recovery plan in detail.

The next meeting was scheduled for December and through to February 2018 the Committee would focus on planning for 2018/19.

Other areas of scrutiny included reviewing business cases, receiving updates on initiatives such as the recent Carbon Efficiency project, and business development opportunities.

There were no questions for Mrs Taylor.

Mrs Schofield thanked Mrs Taylor and highlighted to the public that a Governor observed each Finance Committee meeting. This was a complex committee which scrutinised financial papers and was an important element of governance assurance for the Council.

11. Audit Committee Terms of Reference Review

Mr Thompson referred to Paper 11.0 which had been circulated prior to the meeting and taken as read.

The NHS Foundation Trust Code of Governance required that the Council of Governors were consulted on the Audit Committee Terms of Reference, which should be reviewed and refreshed regularly. Mr Thompson welcomed any comments from Governors before the Terms of Reference were considered further at the December Audit Committee. They would then be submitted to the Board of Directors in January 2018 for approval.

There were no questions, nor immediate comments, from Governors on the Audit Committee Terms of Reference.

12. Any other relevant business not included on the agenda

12.1 2018 Calendar of Council of Governors' meetings

The 2018 calendar of Council of Governors' meetings had been circulated prior to the meeting.

Mrs Schofield summarised the content of the meeting and suggested that an evaluation of each meeting would be included on future agendas as a standard item.

Mrs Edgar congratulated Mrs Schofield on chairing her first public meeting of the Council of Governors. Members of the public commented that they found the meeting interesting and would like to attend again.

ACTION:

- **Add evaluation of the meeting as a standard item on each future agenda.**

13. Close of meeting

There were no further items of business and therefore Mrs Schofield closed the meeting. She thanked everyone for attending and confirmed the next meeting would take place on Saturday morning, 3 February 2018.

UNCONFIRMED

HDFT Council of Governor Meeting Actions Log – February 2018

Completed Actions

This document logs actions completed following agreement at Council of Governor meetings. Completed items will remain on the schedule for the following meeting and then removed.

Outstanding items for action are recorded on the 'outstanding actions' document.

Ref	Meeting Date	Item Description	Director/Manager Responsible	Date of completion	Confirm action complete
1	2 August 2017	Circulate Non-Executive Director's Objectives to Governors	Angie Colvin, Corporate Affairs and Membership Manager	4 August 2017	Complete
2	2 August 2017	Update from Estates Department regarding alternatives to hooks on the back of public toilet doors	Mr Rob Harrison, Chief Operating Officer	1 November 2017	Complete
3	2 August 2017	Clarification on question submitted by member of public re liquid glucose	Dr David Scullion, Medical Director	1 November 2017	Complete

HDFT Council of Governor Meeting Actions Log – Outstanding Actions

This document logs items agreed at Council of Governor meetings that require action following the meeting. Where necessary, items will be carried forward onto the Council of Governor agenda in the relevant agreed month. The Director/Manager responsible for the action will be asked to confirm completion of actions or give a progress update at the following Council of Governor meeting when they do not appear on a future agenda.

When items have been completed they will be marked as such and transferred to the completed actions schedule as evidence.

Ref	Meeting Date	Item Description	Director/Manager Responsible	Date due to go to Council of Governor meeting or when a confirmation of completion/progress update is required	Detail of progress
1	2 November 2016	Update on the Global Health Exchange Programme	Mr Phillip Marshall, Director of Workforce and Organisational Development	Further update due 3 February 2018	Updates provided 18 February, 3 May, 2 August and 1 November 2017
2	18 February 2017	Update on review of Quality of Care Teams/Review of Governors on Quality of Care Teams	Mrs Jill Foster, Chief Nurse/Mrs Angie Colvin, Corporate Affairs and Membership Manager	Further update due 3 February 2018	Further update provided 3 May 2017 Ongoing
3	1 November 2017	Outcome of Internal Audit report on the Trust's position to cyber security	Mr Rob Harrison, Chief Operating Officer	Update due 3 February 2018	

COUNCIL OF GOVERNORS DECLARATION OF INTERESTS

The following is the current register of the Council of Governors of Harrogate and District NHS Foundation Trust and their declared interests. The register is maintained by the Foundation Trust Office, and holds the original signed declaration forms. These are available for inspection by contacting the office on 01423 554489.

Name	Governor Status	Interests Declared	
Mrs Angela Schofield	Chairman	A position of Authority in a charity or voluntary organisation in the field of health and social care	Volunteer with Helping Older People (charity).
Ms Pamela Allen	Public elected		NONE
Dr Pamela Bagley	Stakeholder	Any connection with a voluntary or other organisation contracting for NHS services Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the NHS Foundation Trust, including but not limited to, lenders or banks	Dean – Faculty of Health Studies, University of Bradford commissioned for Under Graduate and Post Graduate education of Health Service staff and future staff The Trust provides placements for University of Bradford students but this is financed through Health Education England
Mrs Cath Clelland MBE	Public elected	Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies)	Owner/Director - Canny Consultants Ltd Owner/Director – City Kipping Ltd (dormant) Non-Executive - York St John University, York
Ms Clare Cressey	Staff elected		NONE
Mrs Liz Dean	Public elected		NONE

1 (updated February 2018)

Name	Governor Status	Interests Declared	
Mr Tony Doveston	Public elected	A position of Authority in a charity or voluntary organisation in the field of health and social care	Volunteer for Yorkshire Air Ambulance
Miss Sue Eddleston	Public elected		NONE
Mrs Emma Edgar	Staff elected		NONE
Mrs Beth Finch	Stakeholder	Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services	British Red Cross
Dr Sheila Fisher	Public elected	Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies) A position of Authority in a charity or voluntary organisation in the field of health and social care	Governor (by definition a Director) of Bolton School Ltd Chair, HRA Yorkshire & Humber Leeds (West) Research Ethics Committee member and Trial Steering/Management Group for NIHR funded studies (currently 3 studies)
Ms Carolyn Heaney	Stakeholder	Ownership, part-ownership or directorship of private companies, business or consultancies likely or possibly seeking to do business with the NHS Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services Other	Self-employed Executive Coach and Consultant operating as 'Clear Day Solutions' Previous Trustee of the MS Society. Volunteer member of its Policy Reference Group Independent Trustee of the ASDA Foundation. Community Governor of Rossett Academy School in Harrogate

2 (updated February 2018)

Name	Governor Status	Interests Declared	
Cllr Phil Ireland	Stakeholder	<p>Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies)</p> <p>A position of Authority in a charity or voluntary organisation in the field of health and social care</p> <p>Position of authority in a local council or Local Authority</p> <p>Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services</p>	<p>Ingenium Lighting Ltd</p> <p>Trustee – Relate Yorkshire</p> <p>Member – Harrogate Borough Council, Knaresborough King James Ward</p> <p>Relate Yorkshire</p>
Mrs Pat Jones	Public elected	<p>Position of authority in a local council or Local Authority</p> <p>Position of authority in a charity or voluntary organisation in health and social care</p>	<p>Conservative Councillor representing Stray Ward</p> <p>Trustee at Harrogate CVS Governor at Harrogate Ladies College</p>
Mrs Mikalie Lord	Staff elected		NONE
Cllr John Mann	Stakeholder	Position of authority in a local council or Local Authority	Harrogate Borough Council Councillor for Pannal North Yorkshire County Council for Harrogate Central
Mrs Rosemary Marsh	Public elected		NONE
Mr Andy Masters	Staff elected		NONE

3 (updated February 2018)

Name	Governor Status	Interests Declared	
Mrs Zoe Metcalfe	Public elected	Position of authority in a local council or Local Authority	Conservative Harrogate Borough Councillor North Yorkshire County Councillor
		Position of authority in a charity or voluntary organisation in health and social care	Trustee at Hollytree Foundation Charity
Dr Daniel Scott	Staff elected	NONE	
Mr Steve Treece	Public elected	Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services	Employee of NHS Digital
Dr Jim Woods	Stakeholder	Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies)	Director of Yorkshire Health Network Ltd
		Ownership, part-ownership or directorship of private companies, business or consultancies likely or possibly seeking to do business with the NHS	Partner: Dr Moss and Partners GP Surgery Partner: Harrogate Medical Services Part Owner: Kings Road Pharmacy
		Other	Liaison officer for Harrogate Division of North Yorkshire LMC/Chairman Harrogate LMC

4 (updated February 2018)

Date of Meeting:	3 February 2018	Agenda item:	Paper 6.1								
Report to:	Council of Governors										
Title:	Governor Working Group – Volunteering and Education										
Author(s):	Mrs Pat Jones, Public Governor										
Report Purpose:	<table border="1"> <tr> <td>Decision</td> <td></td> <td>Discussion/ Consultation</td> <td></td> <td>Assurance</td> <td></td> <td>Information</td> <td>✓</td> </tr> </table>			Decision		Discussion/ Consultation		Assurance		Information	✓
Decision		Discussion/ Consultation		Assurance		Information	✓				
Executive Summary:	<p>This report summarises the items discussed at the last meeting of the Governor Working Group for Volunteering and Education, held on 16 January 2018.</p> <p>The purpose of the Group is to monitor, promote, develop and support the Volunteer Programme, Work Experience and Education Liaison and relevant workforce issues.</p>										

Volunteering

On average volunteers contribute 2,000 hours a month to the Trust. We currently have 567 active volunteers assisting in the hospital and across community sites.

The Trust was extremely proud of two of our volunteers who won prestige awards at the Harrogate & District Volunteering Oscars in October 2017. There has also been interest from media with BBC Radio York interviewing our Pets Nationwide Volunteer who visits the hospital twice weekly with her Leonburger dog.

New volunteers have been placed in the following areas:

- Volunteer for Clinical Effectiveness to assist with audits.
- Two new volunteers from the Citizens Advice Bureau who will be offering weekly appointments in the Sir Robert Ogden Macmillan Centre.
- A new Craft volunteer for the Lascelles Unit.
- Four volunteers have now been trained to act as End of Life Support Volunteers; they started support for patients from January 2018.

There are many opportunities and projects ongoing for volunteers and further details can be found on the Trust website at <https://www.hdfn.nhs.uk/about/fundraising-and-volunteering/volunteering/>

Work Experience

Positive feedback is regularly being received from students regarding their work experience placements. Almost all wards are now engaged with the programme and there are new opportunities in the community including Selby Children's Centre and Scarborough Dental Clinic. The Trust is also providing a small number of placements to students living outside of the local area due to neighbouring trusts not offering a work experience.

The Team continues to promote the wide range of career opportunities in the NHS and schools are being encouraged to communicate both clinical and non-clinical placements to their students.

Education Liaison

Governors were pleased to meet a member of the Recruitment Team who attended the meeting to explain why she wanted to get involved with the Education Liaison programme. She described how this had helped her improve her communication skills and gave her the opportunity to share her experience with young people by telling them how she had started as an apprentice and now had a permanent position.

Projects

The Trust is involved in an exciting new project called Project Choice; a supported internship programme for people with learning disabilities, difficulties or autism. The Trust would be assisting the supported internship by offering one placement at this stage to a young person. The role will be unpaid for three months at band 2 level, to provide a true representation of working life.

Date of Meeting:	3 February 2018	Agenda item:	Paper 6.2								
Report to:	Council of Governors										
Title:	Governor Working Group – Membership Development and Communications										
Author(s):	Ms Pamela Allen, Public Governor										
Report Purpose:	<table border="1"> <tr> <td>Decision</td> <td></td> <td>Discussion/ Consultation</td> <td></td> <td>Assurance</td> <td></td> <td>Information</td> <td>✓</td> </tr> </table>			Decision		Discussion/ Consultation		Assurance		Information	✓
Decision		Discussion/ Consultation		Assurance		Information	✓				
Executive Summary:	<p>This report summarises the items discussed at the last meeting of the Governor Working Group for Membership Development and Communications, held on 16 January 2018.</p> <p>The purpose of the group is to oversee the delivery of the Foundation Trust’s Membership Development Strategy, including membership recruitment and engagement.</p> <p>Ms Allen will highlight the next membership communication.</p>										

Youth Forum Update

The Youth Forum now has 30 members and they continue to meet every four to six weeks. Work is progressing well with the Children's and County Wide Community Care Directorate and the Youth Forum in developing 'Our Hopes for Healthcare at HDFT'; a strategy for children and young people's involvement in health care provision. The Group was presented with the artwork that the Youth Forum is using to launch the strategy in March 2018. They will now make contact with as many children and young people as possible to get their views on the 'Hopes'.

Governor Elections 2017

New Public Governors were elected in to the following seats:

Harrogate and surrounding villages – Mrs Rosemary Marsh.
The Rest of North Yorkshire and York – Mrs Cath Clelland (re-elected).
Wetherby and Harewood including Otley and Yeadon, Adel and Wharfedale and Alwoodley wards – Dr Sheila Fisher.

New Staff Governors were elected unopposed:

Nursing and Midwifery – Mr Andy Masters.
Non-Clinical – Mrs Mikalie Lord.

The following seats remain vacant:

Ripon and west district – one seat.
The Rest of England – one seat.

A By-Election will take place in the spring (timetable to be confirmed) for the following seats:

Vacant seats as above – Ripon and west district and The Rest of England.
Knaresborough and east district. – one seat (following the resignation of Mrs Ann Hill).
Staff Governor for Other Clinical.

Anyone interested in finding out more about becoming a Governor, or the election process, can contact Angie Colvin, Corporate Affairs and Membership Manager on 01423 554489 or via email at angie.colvin@hdfnhs.uk

Medicine for Members' events

The next Medicine for Members' topic is being finalised and further details will be available on the Trust website in due course: <https://www.hdfnhs.uk/about/membership/calendar/>

Membership Communications

The next communication to members is underway and will be sent out in February. All future communications will be sent electronically and members will be able to access the newsletter on the Trust website: <https://www.hdfnhs.uk/about/membership/calendar/>

Membership Recruitment and Engagement

Recruitment activities are carried out on an ongoing basis. Some examples from the last quarter include:

- Council of Governor Elections 2017
- Education Liaison Activity – mock interviews and careers fairs.
- Engagement with young people through the Youth Forum and Work Experience Programme.

Date of Meeting:	3 February 2018	Agenda item:	Paper 6.3								
Report to:	Council of Governors										
Title:	Patient and Public Involvement – Learning from Patient Experience Group										
Author(s):	Miss Sue Eddleston, Public Governor										
Report Purpose:	<table border="1"> <tr> <td>Decision</td> <td></td> <td>Discussion/ Consultation</td> <td></td> <td>Assurance</td> <td></td> <td>Information</td> <td>✓</td> </tr> </table>			Decision		Discussion/ Consultation		Assurance		Information	✓
Decision		Discussion/ Consultation		Assurance		Information	✓				
Executive Summary:	<p>This report summarises the items discussed at the last meeting of the Learning from Patient Experience Group, held on 7 December 2018 and 17 January 2018.</p> <p>The purpose of the group is to understand, monitor, challenge and seek to improve the quality of the experience of users of services provided by HDFT, both in hospital and in the community, taking into account the values of the NHS Constitution and the Trust’s Values and Behaviours.</p> <p>Miss Eddleston will highlight Equality Delivery System 2 (EDS2)</p>										

Quality and Patient Experience Reports

The latest Directorate highlights included:

Planned and Surgical Care -

- Ophthalmology is shown to be an outstanding service, with very low numbers of complaints compared to the number of patient contacts.
- A discussion took place about comments (positive and negative) and how the Trust could provide feedback about the changes made as a result of this feedback.

Long Term and Unscheduled Care -

- The Directorate was congratulated by the Group for having no falls in November and December 2017.
- 40% of complaints were responded to within deadline. Reasons for delays included the time it takes to compile responses when more than one organisation was involved and gathering statements from staff when they were on leave etc.

Children's and County Wide Community Care -

- 0-19 service feedback was collected regularly from young people and parents. New methods of collecting feedback were being considered.
- Issues arise from IT equipment and non-HDFT premises that staff work out of.

Chief Nurse's Report

The Chief Nurse was delighted to be able to report and congratulate the Maternity Team for achieving the UNICEF Baby Friendly accreditation at Gold Standard; the first Trust nationally to have receive the Gold Standard and the accreditation for the Special Care Baby Unit.

Equality Delivery System (EDS2) Update

The Trust has completed a self-assessment on its work towards ensuring accessibility of services for people with protected characteristics and other disadvantaged groups, for the Equality Delivery System (EDS2.) A stakeholder event was held on 15 January 2018 and updates were highlighted from the following services:

- Supporting patients with learning disabilities.
- Working with Gypsy, Roma and Traveller children and families.
- Youth Forum.

This group agreed that the assessment was an accurate reflection of the Trust's work to date and the report, which will be uploaded at the end of January, can be found on the Trust's website at: <https://www.hdft.nhs.uk/about/equality-and-diversity/#equality-delivery-system-2>

Update from Patient Voice Group (PVG)

PVG had received responses following recent ward visits and this concluded the PVG's programme of work for 2017.

They planned to meet with matrons and the Operational Director for the Children's and County Wide Community Care Directorate to discuss plans for hospital and community visits in 2018.

Other business

Independent Health Complaints Advocacy Service, North Yorkshire Annual Report 1 April 2016 – 31 March 2017

The Trust signposts people to Cloverleaf, an Independent Health Complaints Advocacy Service, if they are not confident to raise an issue on their own. Cloverleaf produce this report and it is a useful tool to assess the effectiveness of the complaints service provided by the Trust. It provides a very positive reflection of the service. There were no unsatisfactory comments in terms of the way the Trust had resolved issues when Cloverleaf had been involved.

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Date of Meeting:	3 February 2018	Agenda item:	7.0								
Report to:	Council of Governors										
Title:	Report from the Nominations Committee										
Sponsoring Director:	Mrs Angela Schofield, Chairman Ms Pamela Allen, Deputy Chair of Governors										
Author(s):	Mrs Katherine Roberts, Company Secretary										
Report Purpose:	<table border="1"> <tr> <td>Decision</td> <td></td> <td>Discussion/ Consultation</td> <td></td> <td>Assurance</td> <td>✓</td> <td>Information</td> <td>✓</td> </tr> </table>			Decision		Discussion/ Consultation		Assurance	✓	Information	✓
Decision		Discussion/ Consultation		Assurance	✓	Information	✓				
Executive Summary:	<ul style="list-style-type: none"> The Nominations Committee met on 3 January 2018 and agreed a recruitment process for two non executive directors to the Board of Directors during 2018. The timetable for the recruitment process will mean that successful candidates are presented to the Council of Governors in May 2018 for approval. 										
Related Trust Objectives											
<table border="1"> <tr> <td>To deliver high quality care</td> <td>✓</td> <td>To work with partners to deliver integrated care:</td> <td>✓</td> <td>To ensure clinical and financial sustainability:</td> <td>✓</td> </tr> </table>				To deliver high quality care	✓	To work with partners to deliver integrated care:	✓	To ensure clinical and financial sustainability:	✓		
To deliver high quality care	✓	To work with partners to deliver integrated care:	✓	To ensure clinical and financial sustainability:	✓						
Key implications											
Risk Assessment:	None identified.										
Legal / regulatory:	The recruitment of non executive directors must comply with the requirements of the Trust's constitution.										
Resource:	None identified.										
Impact Assessment:	Not applicable.										
Conflicts of Interest:	None identified.										
Reference documents:	<p>An advert for the two Non Executive Director positions will shortly be available on NHS Jobs.</p> <p>Appendix 1 Minutes of the meeting, 3 January 2018.</p>										
Assurance:	The Nominations Committee met and considered this issue on 3 January 2018.										
Action Required by the Board of Directors:											
<p>It is recommended that the Council of Governors:</p> <ul style="list-style-type: none"> Approves the minutes of the Nominations Committee on 3 January 2018. Notes the update from the Nominations Committee regarding the recruitment of non executive directors. 											

Report from the Nominations Committee

The Nominations Committee met on 3 January 2018. In accordance with the terms of reference the Committee considered and agreed a formal, rigorous and transparent procedure for the selection of candidates for the office of Non-Executive Director of the Trust.

It should be noted that the Committee agreed the recruitment process for two non executive directors to the Board of Directors during 2018. This is because Mr McLean would soon be moving to a different part of the country. He had therefore decided to step down from the Board of Directors at the end of his first term of office in April 2018. In addition, Mr Ward had decided not to continue as a member of the Board of Directors when his second term of office ended in September 2018.

In considering the procedure for the selection of candidates governors paid particular regard to promoting equal opportunities and diversity.

Mrs Angela Schofield
Chairman

Ms Pamela Allen
Deputy Chair of Governors

For and on behalf of the Council of Governor's Nominations Committee

Appendix 1 Minutes of the meeting, 3 January 2018.

**Minutes of the Nominations Committee
held on Tuesday 3 January 2018
in the Boardroom, Trust HQ, 3rd Floor, Harrogate District Hospital**

Present

Members: Ms Pamela Allen, Public Governor/Deputy Chair of Governors
Ms Clare Cressey, Staff Governor
Mrs Liz Dean, Public Governor
Mr Tony Dovestone, Public Governor
Miss Sue Eddleston, Public Governor
Mrs Emma Edgar, Staff Governor
Mrs Sheila Fisher, Public Governor
Mrs Pat Jones, Public Governor
Mrs Mikalie Lord,
Mr Andy Maters, Staff Governor
Mrs Angela Schofield, Chairman
Mr Daniel Scott, Staff Governor

Ex Officio:

Mr Andrew Forsyth, Compliance and Revalidation Manager
Mr Phillip Marshall, Director of Workforce and Organisational Development
Mrs Katherine Roberts, Company Secretary (minutes)
Dr Ros Tolcher, Chief Executive

1. Apologies for absence

Mrs Schofield welcomed everyone to the meeting.

Apologies were received from Mrs Pamela Bagley (Stakeholder Governor), Mrs Angie Colvin (Corporate Affairs and Membership Manager), Mrs Joanne Harrison (Deputy Director of Workforce and Organisational Development), Ms Carolyn Heeney (Stakeholder Governor), Mr Phil Ireland (Stakeholder Governor), Mrs Rosemary Marsh (Public Governor) and Mr Steve Treece (Public Governor).

2. Conflicts of Interest

Mrs Schofield confirmed there were no conflicts of interest. She reminded governors to declare any interests should they become apparent during the meeting.

3. Appointment of two new Non Executive Directors

Mrs Schofield explained Mr McLean would soon be moving to a different part of the country. He had therefore decided to step down from the Board of Directors at the end of his first term office in April 2018. Governors noted that Mr Ward had decided not to continue as a member of the Board of Directors when his second term of office would end in September 2018. It was therefore recommended to the Nominations Committee that a recruitment process should commence seeking two candidates for non executive Director roles to start during 2018.

Mrs Schofield confirmed that alongside Mrs Roberts and Mr Forsyth, she had reviewed the recruitment process and made minor amendments. She noted the importance of the recruitment being a governor lead process. It was important there were opportunities for all governors to be involved as far as possible.

The Committee considered the composition of the recruitment panel. It was agreed this would comprise up to five governors, including three public governors. Following discussion, members of the Committee agreed the recruitment panel would consist of Ms Allen, Mr Dovestone, Mrs Jones and Mrs Edgar.

ACTION: Mrs Roberts to liaise with stakeholder governors and seek expressions of interest to join the recruitment panel.

The ideal person criteria were discussed. Mrs Schofield explained that in addition to the standard non executive person criteria, experience of high level partnership / collaborative working, and governance experience had been included.

In light of Mr McLean's legal expertise, governors considered whether a legal background should be included within the person criteria. It was agreed this was not required and a good grasp of governance issues would be sufficient.

It was agreed the phrase "*and reside within its constituencies*" should be removed from the person criteria.

It was agreed the person criteria should be amended to include an additional statement regarding equal opportunities and diversity.

Following discussion it was agreed the person criteria should be amended to remove the requirement for experience of leading and delivering complex organisational change.

Subject to these amendments the person criteria were agreed.

ACTION: Mr Forsyth to update the person criteria:

- remove "*and reside within its constituencies*" from the person criteria.

- **include an additional statement regarding equal opportunities and diversity.**
- **remove the requirement for experience of leading and delivering complex organisational change.**

Mrs Schofield confirmed the role description was based on NHS Improvement guidance. The role description was approved with no amendments.

The advertisement was considered by the Committee. It was agreed an additional statement regarding equal opportunities and diversity should be added to the advertisement. Subject to this amendment the advertisement was approved.

ACTION: Mr Forsyth to update the advertisement to include an additional statement regarding equal opportunities and diversity.

Building on previous non executive recruitment processes, Mr Forsyth noted the expanded circulation list which was planned to promote the advertisement. It was anticipated this would result in extended circulation to a more diverse range of candidates and to a wider geography.

The timetable for the recruitment process was noted, successful candidates would be presented to the Council of Governors in May 2018 for approval.

4. Any other business

There was no other business, the meeting closed at 5.25pm.

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Date of Meeting:	3 February 2018	Agenda item:	7.1
Report to:	Council of Governors		
Title:	Report from the Remuneration Committee		
Sponsoring Director:	Mrs Angela Schofield, Chairman Ms Pamela Allen, Deputy Chair of Governors		
Author(s):	Mrs Katherine Roberts, Company Secretary		
Report Purpose:	Decision	<input checked="" type="checkbox"/>	Discussion/ Consultation
			Assurance
			<input checked="" type="checkbox"/>
			Information
			<input type="checkbox"/>
Executive Summary:	<ul style="list-style-type: none"> The Trust Board had decided Mr Chris Thompson (Non Executive Director) will be appointed to the Board of the Trust's new wholly owned subsidiary company; Board of Harrogate Healthcare Facilities Management Limited (HHFM). The company had been established to provide estates and facilities services. The Remuneration Committee met on 3 January 2018 and resolved to present a recommendation to the Council of Governors that Mr Chris Thompson should be paid an additional responsibility allowance of £4,000 per annum in addition to his current agreed level of remuneration. 		
Related Trust Objectives			
To deliver high quality care		To work with partners to deliver integrated care:	
		To ensure clinical and financial sustainability:	<input checked="" type="checkbox"/>
Key implications			
Risk Assessment:	None identified.		
Legal / regulatory:	Decisions regarding the remuneration of Non Executive Directors are reserved to the Council of Governors by the Trust constitution.		
Resource:	An additional cost of £4k per annum.		
Impact Assessment:	Not applicable.		
Conflicts of Interest:	<p>Mr Chris Thompson has a conflict of interest in relation to this matter. He may not participate in consideration of this report and will be excluded from this section of the Council of Governors meeting.</p> <p>Ms Cressey is a potential employee of Harrogate Healthcare Facilities Management; she therefore has a conflict of interest in this agenda item. It is recommend that she is included in the discussion, but not permitted to vote on the recommendations included within the paper.</p>		

Reference documents:	Appendix 1 Minutes of the meeting, 3 January 2018.
Assurance:	The Remuneration Committee met and considered this issue on 3 January 2018.
Action Required by the Board of Directors:	
<p>It is recommended that the Council of Governors:</p> <ul style="list-style-type: none"> • Approve that an additional responsibility allowance of £4,000 per annum should be paid to Mr Chris Thompson in addition to his current agreed level of remuneration. 	

Report from the Remuneration Committee

The Remuneration Committee met on 3 January 2018. In accordance with the Trust's constitution the Committee considered and resolved to present a recommendation to the Council of Governors regarding remuneration for Mr Chris Thompson, Non Executive Director.

Background

The Remuneration Committee was established to support the Council of Governors and make recommendations to the Council regarding the remuneration packages for the non executive directors.

The Trust Board has decided Mr Chris Thompson (Non Executive Director) will be appointed to the Board of the Trust's new wholly owned subsidiary company; Board of Harrogate Healthcare Facilities Management Limited (HHFM). The company has been established to provide estates and facilities services.

Day to day management of HHFM will be delegated to an independent board of directors. The Board of HHFM will be comprised of five directors; two Trust directors and three non-Trust directors. In addition to Mr Thompson, Jonathan Coulter, Deputy Chief Executive / Finance Director has been appointed to the Board of HHFM. He will not receive additional remuneration for this role.

Additional Responsibilities

In serving as a director of HHFM Mr Thompson will be required to dedicate up to 12 days per annum to the new company. In addition he will assume additional legal responsibilities as a company director.

Additional Responsibility Allowance

In recognition of the additional time commitment and the increased responsibilities, it is proposed Mr Thomson would be paid an Additional Responsibility Allowance of £4,000 in addition to his current agreed level of remuneration.

Recommendation

It is recommended that the Council of Governors:

- Approve that an Additional Responsibility Allowance of £4,000 should be paid to Mr Chris Thompson in addition to his current agreed level of remuneration.

Mrs Angela Schofield
Chairman

Ms Pamela Allen
Deputy Chair of Governors

For and on behalf of the Council of Governor's Remuneration Committee

Appendix 1 Minutes of the meeting, 3 January 2018.

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MINUTES OF THE REMUNERATION COMMITTEE FOR NON-EXECUTIVE DIRECTORS INCLUDING THE CHAIRMAN
Held on 3 January 2018 at 5.30pm in the Board Room, Harrogate District Hospital

- Present: Ms Pamela Allen, Public Governor/Deputy Chair of Governors
Ms Clare Cressey, Staff Governor
Mrs Liz Dean, Public Governor
Mr Tony Dovestone, Public Governor
Miss Sue Eddleston, Public Governor
Mrs Sheila Fisher, Public Governor
Mrs Pat Jones, Public Governor
Mr Andy Maters, Staff Governor
Mrs Angela Schofield, Chairman
Mr Daniel Scott, Staff Governor
- Ex Officio: Mr Phillip Marshall, Director of Workforce and Organisational Development
Mrs Katherine Roberts, Company Secretary (minutes)
Dr Ros Tolcher, Chief Executive

1. Apologies for absence

Mrs Schofield welcomed everyone to the meeting.

Apologies were received from Mrs Pamela Bagley (Stakeholder Governor), Mrs Angie Colvin (Corporate Affairs and Membership Manager), Mrs Joanne Harrison (Deputy Director of Workforce and Organisational Development), Ms Carolyn Heeney (Stakeholder Governor), Mr Phil Ireland (Stakeholder Governor), Mrs Rosemary Marsh (Public Governor) and Mr Steve Treece (Public Governor).

2. Conflicts of Interest

Mrs Schofield noted Ms Cressey's conflict of interest as a potential employee of Harrogate Healthcare Facilities Management Limited.

She reminded governors to declare any interests should they become apparent during the meeting.

3. Remuneration for the Trust Board Non Executive Director appointed to the Board of Harrogate Healthcare Facilities Management Limited

Mrs Schofield explained the Trust Board had decided Mr Chris Thompson (Non Executive Director) would be appointed to the Board of the Trust's new wholly owned subsidiary company; Board of Harrogate Healthcare Facilities Management Limited (HHFM). The company had been established to provide estates and facilities services.

Mrs Schofield explained that in recognition of this additional responsibility, members of the Committee were invited to consider presenting a recommendation

to the Council of Governors that Mr Chris Thompson would be paid an 'Additional Responsibility Allowance' of £4,000 in addition to his current agreed level of remuneration.

Providing additional background Mrs Roberts explained that day to day management of HHFM would be delegated to an independent board of directors. The Board of HHFM would be comprised of five directors; two Trust directors and three non-Trust directors. The Trust Board had resolved that the two Trust appointed directors would be Jonathan Coulter, Deputy Chief Executive / Finance Director and Chris Thompson, Non-Executive Director.

Governors noted that the Committee had been established to support the Council of Governors and make recommendations to the Council regarding the remuneration packages for the Non-Executive Directors

Mrs Roberts clarified that the Trust currently paid an 'Additional Responsibility Allowance' of £3,535 per annum, to the Non-Executive Directors who held an additional office, for example chairing a board committee.

She noted that serving as a director of HHFM would mean Mr Thompson would be required to dedicate up to 12 days per annum to the new company. In addition Mrs Roberts highlighted the additional legal responsibilities Mr Thompson would assume as a company director.

Mrs Roberts concluded by explaining that following consideration of comparable benchmark figures and in recognition of the additional time commitment and the increased responsibilities, it was proposed Mr Thomson would be paid an Additional Responsibility Allowance of £4,000 in addition to his current agreed level of remuneration.

Mr Dovestone queried why a figure of £4,000, which was higher than the standard 'Additional Responsibility Allowance' for Non Executive Directors of £3,535 per annum. Mrs Dean acknowledged the increased liabilities assumed by company directors, these were a significant increase on the responsibilities of a committee chair. Mrs Schofield added that the level of remuneration for the directors of HHFM needed to be reasonable and sufficient to attract potential candidates. Moreover the remuneration provided to all members of the HHFM Board of Directors needed to be equitable for comparable roles.

Dr Scott asked for clarity about why the governors were involved in a decision regarding the remuneration for Mr Thompson. Mrs Schofield explained that all decisions regarding remuneration for Non Executive Directors were reserved to the Council of Governors.

The Remuneration Committee resolved to present a recommendation to the Council of Governors that Mr Chris Thompson should be paid an Additional Responsibility Allowance of £4,000 in addition to his current agreed level of remuneration.

5. Any other business

There was no other business, the meeting closed at 6.00pm.

Date of Meeting:	3 February 2018	Agenda item:	8.0
Report to:	Council of Governors		
Title:	Update on establishment of Harrogate Healthcare Facilities Management Limited		
Sponsoring Director:	Mr Roberts Harrison, Chief Operating Officer Mr Jonathan Coulter, Deputy Chief Executive / Finance Director		
Author(s):	Mrs Katherine Roberts, Company Secretary		
Report Purpose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Decision	Discussion/ Consultation	Assurance
			Information
Executive Summary:	<p>This report is intended to support a presentation to the Council of Governors on 3 February 2018 regarding the establishment of Harrogate Healthcare Facilities Management Limited (HHFM).</p> <p>Enclosed for information is a report presented to the Board of Directors on 31 January 2018.</p> <p>The Council of Governors was informed about the proposed establishment of HHFM in the private meeting of the Council of Governors held on 1 November 2017.</p> <p>In November 2017 the Trust Board agreed to establish a new wholly owned subsidiary company to provide estates and facilities services to the Trust. This decision was made in private due to the commercially sensitive nature of the topic.</p> <p>The Board considered and agreed a business case, which provided options and recommendations for establishment of the company. The business case included a number of benefits to the Trust.</p> <p>Creation of HHFM will affect circa 350 staff and present a sizable TUPE transfer arrangement.</p> <p>Robust governance arrangements have been established to support the company. A number of important decisions will be reserved to the Trust's Board of Directors; these are referred to as reserved powers.</p>		
Related Trust Objectives			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
To deliver high quality care		To work with partners to deliver integrated care:	To ensure clinical and financial sustainability:
Key implications			

Risk Assessment:	The project team supporting establishment of HHFM maintain a detailed risk register.
Legal / regulatory:	The Trust engaged professional legal and financial advice from Hempsons Solicitors and Ernst and Young.
Resource:	A number of financial benefits were identified during preparation of the business case. Details are included within the report.
Impact Assessment:	An Equality Impact Assessment was completed during preparation of the business case.
Conflicts of Interest:	<p>As directors of Harrogate Healthcare Facilities Management (Mr Coulter and Mr Thompson) have a conflict of interest regarding this agenda item.</p> <p>Ms Cressey is a potential employee of Harrogate Healthcare Facilities Management; she therefore has a potential conflict of interest in this agenda item.</p> <p>This item is not for decision; it is therefore recommended that Ms Cressey, Mr Coulter and Mr Thompson are able to participate fully in the discussion.</p>
Reference documents:	Not applicable
Assurance:	The matter was considered full by the Board of Directors in November 2017.
Action Required by the Council of Governors:	
<p>The Council of Governors is invited to:</p> <ul style="list-style-type: none"> • Note the decision made by the Trust Board in November 2017 to establish a new wholly owned subsidiary company called Harrogate Healthcare Facilities Management Limited. • Note legal advice and guidance from NHS Improvement confirmed this would not be a significant or material transaction and as such it did not require approval from, or formal consultation with, the Council of Governors. • Note the Council of Governors was informed about the proposed establishment of HHFM in the private meeting of the Council of Governors held on 1 November 2017. • Note for information the powers which will be reserved to the Trust Board of Directors, as sole shareholder in the company. 	

Establishment of Harrogate Healthcare Facilities Management Limited Copy of an update to the Board of Directors 31/01/2018

Background

In November 2017 the Harrogate and District NHS Foundation Trust Board of Directors decided to establish a new wholly owned subsidiary company (called Harrogate Healthcare Facilities Management Limited) to provide estates and facilities services to the Trust. This decision was made in private due to the commercially sensitive nature of the topic.

The Business Case

In reaching their decision members of the Board of Directors considered a business case which provided options and recommendations for the establishment, service transfer and management of a new wholly owned company to deliver estates and facilities services; Harrogate Healthcare Facilities Management Limited (HHFM).

It was determined that the establishment of HHFM would create a more connected and efficient service delivery arrangement for estates and facilities services. The business identified some a number of specific benefits:

- Modernising pay, terms and conditions for new staff to recognise market rates, this will ensure that HHFM is competitive in the employment market, thereby driving the performance of service delivery.
- Providing the potential to generate return to the Trust through establishing revenue contracts with external clients.
- An ability to generate greater operational efficiencies through delivery of estates and facilities services in an agile and commercially astute manner.
- Changes in the operating model would enable more cost effective delivery of the Trust's capital programme.
- Developing a distinct entity, subject to competitive forces, which is focused wholly on the provision of high quality service to meet the needs of the Trust.

It was recognised that the creation of HHFM will affect circa 350 staff and present a sizable TUPE transfer arrangement. Staff consultation closed in December 2017. A significant element in this was the transfer of NHS pension arrangements for those who transfer and engagement with the Pensions Agency has commenced.

It should be noted that the business case identified a number of financial benefits to the Trust of establishing HHFM. These will result in a benefit of £3.1m in 2017/18, and recurrent a benefit of £1.2m in future years. These financial benefits will be achieved through:

- Recurrent revenue savings
- Cash benefit through the funding for any future capital programme to be more efficient;
- Non-recurrent savings through a re-assessment under the Capital Goods Scheme of recent capital expenditure;
- Commercial income through the expansion of third party income; and
- Flow of funds and working capital arrangements.

Legal advice and guidance from NHS Improvement confirmed this would not be a significant or material transaction (as defined in the Trust's constitution and in NHS Improvement guidance). The Board did not therefore require approval from the Council of Governors to establish HHFM, nor was there a legal requirement to consult Governors. However, in line with recommended practice, Governors were consulted about the proposed establishment of an HHFM in the private meeting of the Council of Governors held on 1 November 2017.

Governance of the company

Day to day management of HHFM will be delegated to a Board of Directors. The Board of the ASDM will be comprised of no more than five directors; two Trust directors and three non-Trust directors. However, as sole shareholder the Trust Board will retain the power to remove any director.

Jonathan Coulter (Deputy Chief Executive / Finance Director) and Chris Thompson (Non-Executive Director) have been appointed as the initial Trust directors on the HHFM Board. Recruitment for the Chair of HHFM is ongoing, and the recruitment process for the remaining two directors will commence in late spring 2018.

Reserved Powers

A number of important decisions will be reserved to the Trust's Board of Directors; these will be referred to as reserved matters. The reserved powers were prepared following consideration of advice from the Trust's legal advisors to ensure the proportionate balance is delivered between independence and control as the shareholder.

Full details of the reserved powers are included below:

- Approving and signing off plans for the strategic direction of the Company.
- Approving the Company's annual business plan.
- Deciding whether the Company should incur expenditure outside the annual business plan which exceeds 1% of the projected budget.
- Deciding whether the Company should join, leave, establish or wind-up any pension scheme or materially alter participation in or, where relevant, the terms of any existing pension scheme.
- Deciding whether the Company should take out any borrowings, except for normal trade credit in the ordinary course of business, except as contemplated in the annual business plan.
- Deciding whether the Company should make any significant change in the nature of the business of the Company, except as contemplated in the annual business plan.
- Deciding whether the Company should enter into, vary, renew or terminate any contract or other arrangement which exceeds the term of the Operated Healthcare Facilities Agreement with the Trust.
- Deciding whether the Company should enter into any partnership or joint venture arrangement or vary or terminate any existing arrangement, or establish any subsidiary except as contemplated in the annual business plan or a separately approved business case.
- Deciding whether the Company should acquire or dispose of any patent, trademark, registered design or other know-how or any intellectual property rights.

- Deciding whether the Company should give or create any guarantee, indemnity, mortgage, or charge over its business, assets or undertakings or sell, discount or otherwise dispose of any of its book or other debts owing to it from time to time, except early payment discounts given in the ordinary course of business, except as contemplated in the annual business plan or any separately approved business case.
- Deciding whether to pass any resolution or take any other corporate action for the winding up of the Company.
- Following a decision by the ASDM's board of directors as to the level of a dividend, deciding whether the Company should pay any dividend or make any other distribution.
- Deciding whether to change the Company's accounting reference period.
- Setting the Company's accounting policies and deciding whether to change them.
- Deciding whether the Company should acquire or agree to acquire any freehold or leasehold interest in or licence over land.
- Deciding whether the Company should sell, lease, license, transfer or otherwise dispose of any of its assets at a total price per transaction exceeding £20,000.
- Approving any outsourcing arrangement or agreement (including by way of subcontract) in respect of the Company, where such arrangement or agreement will, or may, result in the TUPE transfer of staff employed by the Company to a third party

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Date of Meeting:	3 February 2018	Agenda item:	9.0
Report to:	Council of Governors		
Title:	Proposed Amendments to the Constitution of Harrogate and District NHS Foundation Trust		
Sponsoring Director:	Mrs Angela Schofield, Chairman		
Author(s):	Mrs Katherine Roberts, Company Secretary		
Report Purpose:	Decision	<input checked="" type="checkbox"/>	Discussion/ Consultation
			Assurance
			Information
Executive Summary:	<ul style="list-style-type: none"> The Board of Directors has agreed to establish a new wholly owned subsidiary company; Harrogate Healthcare Facilities Management Limited. It is proposed that the new company is provided with the power to appoint a Stakeholder Governor to the Council of Governors. There is a clearly defined process to amend the constitution. The proposed amendments are therefore presented to the Council of Governors for approval, and will then be shared with the Trust Board of Directors for approval in February 2018. The Board of Directors of Harrogate Healthcare Facilities Management Limited has agreed that the company's staff will be invited to vote and select the Stakeholder Governor. It is proposed a wider review of the constitution is undertaken in early 2018, in support of this Terms of Reference for the Constitution Review Working Group are included for agreement. 		
Related Trust Objectives			
To deliver high quality care	<input checked="" type="checkbox"/>	To work with partners to deliver integrated care:	<input checked="" type="checkbox"/>
		To ensure clinical and financial sustainability:	<input checked="" type="checkbox"/>
Key implications			
Risk Assessment:	None identified.		
Legal / regulatory:	The Trust must comply with the requirements of the Constitution in agreeing any amendments to the composition of the Council of Governors.		
Resource:	None identified.		
Impact Assessment:	Not applicable.		
Conflicts of Interest:	As directors of Harrogate Healthcare Facilities		

	<p>Management, Mr Coulter and Mr Thompson have a conflict of interest in this agenda item. In addition, Ms Cressey is a potential employee of Harrogate Healthcare Facilities Management; she therefore has a conflict of interest in this agenda item.</p> <p>It is recommend they are included in the discussion, but not permitted to vote on the recommendations included within the paper.</p>
<p>Reference documents:</p>	<p>The Trust's constitution: https://www.hdft.nhs.uk/content/uploads/2015/12/hdft-constitution-april16.pdf</p> <p>Appendix A: Proposed amendments to the Constitution Appendix B: Terms of Reference for the Constitution Review Working Group.</p>
<p>Assurance:</p>	<p>Not applicable, this matter is reserved to the Council of Governors and the Board of Directors.</p>
<p>Action Required by the Board of Directors:</p>	
<p>It is recommended the Council of Governors:</p> <ol style="list-style-type: none"> 1. Approve the proposed amendments to the Harrogate and District NHS Foundation Trust Constitution, and recommend the Trust Board of Directors. 2. Note the process to select the Stakeholder Governor, as agreed by the Harrogate Healthcare Facilities Management Limited Board. 3. Note the forthcoming process to undertake a review of the Constitution during early 2018. 4. Agree the refreshed terms of reference for the Constitution Review Working Group. 	

Proposed amendments to the constitution of Harrogate and District NHS Foundation Trust

1.0 Background

The Board of Directors has agreed to establish a new wholly owned subsidiary company; Harrogate Healthcare Facilities Management Limited. The new company will provide estates and facilities services to the Trust from March 2018.

The Trust's Constitution permits a number of Stakeholder Governors who are appointed by organisations that have an interest in Harrogate and District NHS Foundation Trust (HDFT).

2.0 The Proposed Amendment

It is proposed that the new company is provided with the power to appoint a Stakeholder Governor to the Council of Governors. This proposal has been developed following feedback from staff and governors. Initial informal feedback about the proposal from governors has been positive.

As the provider of estates and facilities services for the Trust, the new company will be an important stakeholder in HDFT. Harrogate Healthcare Facilities Management Limited will have an interest in the success of HDFT and provision of high quality healthcare. Further it is also recognised that the staff employed by the company, many of whom will be former HDFT employees, will be integral to the success of the Trust and these staff will have daily contact with patients and visitors to the Trust.

The proposal to include a new Stakeholder Governor position for Harrogate Healthcare Facilities Management Limited will necessitate an amendment to the Trust's constitution. It will increase the total number of Stakeholder Governors to seven. A copy of the detailed amendments to the constitution are included at Appendix A.

3.0 Benefits of Stakeholder Governors

There are a number of identified benefits to the Trust and stakeholder organisations in appointing Stakeholder Governors.

Benefits for the Trust having Stakeholder Governors on the Council of Governors	Benefit the stakeholder organisation receives from having membership on the Trust's Council of Governors
Provision of timely and accurate input into service related issues relevant to the stakeholder organisation.	Representation of the stakeholder views on service development
Open discussion on hot topics and future strategic directions	Joined up communications especially to the public

A specific representative who can support the facilitation and/or resolution of issues should they occur	Opportunity to engage with the Trust in a constructive and holistic way on hospital and community healthcare strategies/service transformation
A sounding board for new and potential services	Provide specialist/expert advice to Governor and Membership discussions (e.g. Local Authority expertise on social care matters)
Advising or assisting the resolution of local political/social issues	Insight into the culture, visions, values and future objectives of the Trust

4.0 The Process to Amend the Constitution

There is a clearly defined process to amend the Constitution; this is set out in the Trust's Constitution. It states:

27 Amendment of the constitution

27.1 No amendment shall be made to this Constitution unless:

27.1.1 More than half of the members of the Council of Governors of the trust voting approve the amendments; and,

27.1.2 More than half of the members of the Board of Directors of the trust voting approve the amendments.

The proposed amendments are therefore presented to the Council of Governors for approval. Subject to approval by the Council of Governors the proposed amendments will be presented to the Board of Directors for approval in February 2018.

It is noted that due to the urgent and straightforward nature of the proposed amendment, and the positive initial informal feedback from governors, it was not necessary to establish the Constitution Review Working Group (see further details in section 6.0).

5.0 How Will the Stakeholder Governor be Selected

In anticipation of this proposal being submitted to the Council of Governors, the Board of Directors of Harrogate Healthcare Facilities Management Limited has considered how the company would select an individual to serve as the Stakeholder Governor.

Following consideration of three options it was agreed that the company's staff would be invited to vote and select the individual who would then be appointed by the company's Board to the Council of Governors. It is important to note that this ballot would not comply with the model election rules outlined in the Trust's constitution. For example a simple paper ballot system would be used to cast

votes. Subject to the eligibility criteria for Governors, as outlined in the Trust's constitution, all members of Harrogate Healthcare Facilities Management Limited would be able to nominate themselves to stand for election;

6.0 Review of the constitution

During preparation of these proposed amendments to the Constitution it became apparent that a wider review of the Constitution is required. It is two years since the Constitution was last amended and it is good governance practice for Trusts to review their Constitution on a regular basis.

During previous reviews the Council of Governors established a small working group to support development of amendments to the Constitution. It is recommended the same approach is adopted to facilitate the review process during early 2018. The Council of Governors is therefore invited to consider and approve refreshed terms of reference for the Constitution Review Working Group. Governors who would be interested in joining the Working Group should contact the Company Secretary.

7.0 Recommendations

It is recommended the Council of Governors:

5. Approve the proposed amendments to the Harrogate and District NHS Foundation Trust Constitution, and recommend the Trust Board of Directors.
6. Note the process to select the Stakeholder Governor, as agreed by the Harrogate Healthcare Facilities Management Limited Board.
7. Note the forthcoming process to undertake a review of the Constitution during early 2018.
8. Agree the refreshed terms of reference for the Constitution Review Working Group.

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**CONSTITUTION OF HARROGATE AND DISTRICT NHS
FOUNDATION TRUST
(A PUBLIC BENEFIT CORPORATION)**

Updated in line with the requirements of the Health and Social Care Act 2012

With effect from 1 April 2016

DRAFT FOR APPROVAL

Table of Contents

1.	Interpretation and definitions	3
3	Principal purpose	5
4	Powers	5
5	Commitments	6
6	Framework	7
7	Membership and constituencies.....	8
8	Disqualification from membership.....	10
9	Termination of membership	11
10	The role of members	11
11	The Council of Governors	12
12	Roles and responsibilities of the Council of Governors.....	20
13	Meetings of the Council of Governors.....	21
14	Council of Governors – referral to the Panel.....	22
15	Annual Members’ Meeting	23
16	Board of Directors.....	24
17	Roles and responsibilities of the Secretary of the trust	33
18	Registers.....	33
19	Public documents	34
20	External auditor.....	35
21	Accounts	36
22	Annual reports, forward plans and non-NHS work.....	36
23	Presentation of the annual accounts and reports to the Governors and members.....	37
24	Indemnity	38
25	Execution of documents	38

26 Dispute resolution procedures..... 38

27 Amendment of the constitution 38

28 Mergers etc. and significant transactions 39

Annex A 41

Annex B 43

Annex D 97

Annex E 102

DRAFT FOR APPROVAL

1. Interpretation and definitions

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

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

1.3. In this constitution:

“the 2006 Act”	is the National Health Service Act 2006;
“the 2012 Act”	is the Health and Social Care Act 2012;
"accounting officer"	means the person who from time to time discharges the function specified in section 25(5) of Schedule 7 to the 2006 Act;
"Annual Members' Meeting"	is defined in paragraph 15 of this constitution;
“area of the trust”	means the areas specified in Annex A;
“Board of Directors”	means the Board of Directors as constituted in accordance with this constitution;
“CCGs”	means Clinical Commissioning Groups;
“constitution”	means this constitution and all annexes to it;
“Council of Governors”	means the Council of Governors as constituted in accordance with this constitution;
“Director”	means a member of the Board of Directors;
“elected Governors”	means those Governors elected by the public constituencies and the classes within the staff constituency;
“financial year”	means each successive period of twelve months beginning with 1 April;
"Governor"	means a member of the Council of Governors and either being a Public

	Governor, Staff Governor or Stakeholder Governor;
"Licence"	means the trust's licence granted by Monitor under the 2012 Act
"Medical Practitioners' Staff Class"	means the staff class of the staff constituency defined in paragraph 7.3.3 of this constitution;
"NHS Improvement" (formally known as Monitor)	is the body corporate known as Monitor, as provided by Section 61 of the 2012 Act;
"Nursing and Midwifery Staff Class"	means the staff class of the staff constituency defined in paragraph 7.3.2 of this constitution;
"Other Clinical Staff Class"	means the staff class of the staff constituency defined in paragraph 7.3.4 of this constitution;
"Non-Clinical Staff Class"	means the staff class of the staff constituency defined in paragraph 7.2.5 of this constitution;
"Local Authority Governor"	means a member of the Council of Governors appointed by one or more local authorities whose area includes the whole or part of the area of the trust;
"member"	means a member of the trust;
"the trust"	means Harrogate and District NHS Foundation Trust;
"Public Governor"	means a member of the Council of Governors elected by members of the public constituencies;
"Secretary"	means the secretary of the trust who could be known as the Company Secretary or any other person appointed to perform the duties of the Secretary;
"Staff Governor"	means a member of the Council of Governors elected by the members of the relevant class within the staff constituency;

“Stakeholder Governor”	means those members of the Council of Governors appointed by the appointing organisations;
“Vexatious Complainant”	a definition can be found on the Trust website at http://www.hdft.nhs.uk/about-us/statutory-information/

2 Name

- 2.1 The name of the foundation trust is Harrogate and District NHS Foundation Trust (the trust).

3 Principal purpose

- 3.1 The principal purpose of the trust is the provision of goods and services for the purposes of the health service in England.
- 3.2 The trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
- 3.3 The trust may provide goods and services for any purposes related to:
- 3.3.1 the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
- 3.3.2 the promotion and protection of public health.
- 3.4 The trust may also carry out activities other than those mentioned in the above paragraph for the purpose of making additional income available in order better to carry on its principal purpose.

4 Powers

- 4.1 The powers of the trust are set out in the 2006 Act, subject to any restrictions in its Licence.
- 4.2 In particular it may:
- 4.2.1 acquire and dispose of property;
- 4.2.2 enter into contracts;

- 4.2.3 accept gifts of property (including property to be held on trust for the purposes of the trust or for any purposes relating to the health service); and,
- 4.2.4 employ staff.
- 4.3 Any power of the trust to pay remuneration and allowances to any person includes the power to make arrangements for providing, or securing the provision of, pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).
- 4.4 The trust may borrow money for the purposes of or in connection with its functions subject to any restrictions imposed by NHS Improvement from time to time.
- 4.5 The trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions subject to any guidance provided by NHS Improvement. The investment may include investment by:
- 4.5.1 forming, or participating in forming bodies corporate;
- 4.5.2 otherwise acquiring membership of bodies corporate.
- 4.6 The trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.
- 4.7 The trust may raise charitable funds and in doing so, appeal for any contribution, donation, grant, gift money or property.

5 Commitments

- 5.1 The trust shall exercise its functions effectively, efficiently and economically.
- 5.2 Representative membership
- 5.2.1 The trust shall at all times endeavour to procure membership that, taken as a whole, is representative of those eligible for membership, and in deciding which areas are to be areas of the trust, have regard to the need for those eligible for such membership to be representative of those to whom the trust provides goods and services. The trust shall at all times have in place and pursue a Membership Development Strategy which shall be approved by the Council of Governors, and which shall be reviewed by them from time to time, and in any event, at least every three years.

5.2.2 The Council of Governors shall present to each Annual Members' Meeting:

5.2.2.1 a report on steps taken to procure that, taken as a whole, the actual membership of its constituencies is representative of those eligible for such membership;

5.2.2.2 the progress of a Membership Development Strategy; and,

5.2.2.3 any changes to the Membership Development Strategy.

5.3 Co-operation with external organisations

5.3.1 In exercising its functions the trust shall co-operate with other NHS bodies (as defined in Section 275 of the 2006 Act) including NICE and the Health and Social Care Information Centre, Local Authorities, NHS Improvement, the Care Quality Commission and with other non-health organisations, both statutory and voluntary.

5.4 Respect for rights of people

5.4.1 In conducting its affairs, the trust shall respect the rights of members of the community it services, its employees and people dealing with the trust as set out in the Charter of Fundamental Rights of the European Union and the NHS Constitution.

5.5 Openness

5.5.1 In conducting its affairs, the trust shall have regard to the need to provide information to members and conduct its affairs in an open and accessible way.

6 Framework

6.1 The affairs of the trust are to be conducted by the Board of Directors, the Council of Governors and the members in accordance with this constitution. The members, the Council of Governors and the Board of Directors are to have the roles and responsibilities set out in this constitution.

7 Membership and constituencies

- 7.1 The members of the trust are those individuals whose names are entered in the membership database. Every member is either a member of one of the public constituencies or a member of one of the classes of the staff constituency. Subject to this constitution, membership is open to any individual who:
- 7.1.1 is 16 years of age and over; and
 - 7.1.2 is entitled under this constitution to be a member of a public constituency or a member of the appropriate class within the staff constituency as applicable; and
 - 7.1.3 if applying to be a member of a public constituency, has completed a public membership application form; or
 - 7.1.4 if applying to be a member of a class within the staff constituency, chooses not to opt out of the staff membership scheme.
- 7.2 Public constituencies
- 7.2.1 There are six public constituencies covering the area of the trust as set out in Annex A. Membership of each of the public constituencies is open to individuals:
- 7.2.1.1 who live in an area of the trust;
 - 7.2.1.2 who are not eligible to be members of the staff constituency;
 - 7.2.1.3 who meet the criteria and have completed the application referred to in paragraph 7.1 above; and
 - 7.2.1.4 who are not otherwise disqualified from membership under paragraph 8 of this constitution.
- 7.2.2 The minimum number of members in each of the public constituencies is:
- 200 in Harrogate and surrounding villages;
 - 120 in Ripon and West District;
 - 120 in Knaresborough and East District;

120 in Wetherby and Harewood including Otley and Yeadon, Adel and Wharfedale and Alwoodley Wards;

100 in the rest of North Yorkshire and York; and

50 in the Rest of England.

- 7.2.3 Those individuals who live in an area of the trust are referred to collectively as a public constituency.

7.3 Staff constituency

- 7.3.1 The staff constituency is to be divided into four classes of individuals as follows:

The Nursing and Midwifery Staff Class;

The Medical Practitioners' Staff Class;

The Other Clinical Staff Class; and

The Non-Clinical Staff Class.

The classes are collectively referred to as the staff constituency. In the case of employment covering a dual role, the primary appointment will determine the relevant class of the staff constituency.

- 7.3.2 The members of the Nursing and Midwifery Staff Class are individuals who are members of the staff constituency whose regulatory body falls within the remit of the Council for Healthcare Regulatory Excellence established by section 25 of the NHS Reform and Health Care Professions Act 2002 and who are registered with the Nursing and Midwifery Council, and unregistered nursing staff who are employed by the trust.

- 7.3.3 The members of the Medical Practitioners' Staff Class are individuals who are members of the staff constituency who are fully registered persons within the meaning of the Medical Act 1983 or the Dental Act 1984.

- 7.3.4 The members of the Other Clinical Staff Class are individuals who are members of the staff constituency (other than nurses or midwives referred to in paragraph 7.3.2 above) whose regulatory body falls within the remit of the Council for Healthcare Regulatory Excellence established by section 25 of the NHS Reform and Health Care Professions Act 2002,

or are employed by the trust to carry out associated clinical duties to support clinical staff.

7.3.5 The members of the Non-Clinical Staff Class are individuals who are members of the staff constituency who do not come within paragraphs 7.3.2, 7.3.3 and 7.3.4 above.

7.3.6 Members of the staff constituency are to be individuals who:

7.3.6.1 are employed by the trust under a contract of employment which has no fixed term or a fixed term of at least 12 months; or,

7.3.6.2 have been continuously employed by the trust for at least 12 months; and,

7.3.6.3 are not disqualified from membership under paragraph 8 below; and,

7.3.6.4 have been invited by the trust to become a member of the relevant class of the staff constituency and have not informed the trust they do not wish to be a member.

7.3.7 The minimum number of members in each class of the staff constituency is:

150 will be registered in the Nursing and Midwifery Staff Class;

15 in the Medical Practitioners' Staff Class;

50 in the Other Clinical Staff Class; and

100 in the Non-Clinical Staff Class.

7.3.8 A person who is eligible to be a member of one of the classes of the staff constituency may not become or continue as a member of the public constituencies and may not become or continue as a member of more than one staff class.

8 Disqualification from membership

8.1 A person may not be a member of the trust:

8.1.1 If, in the opinion of the Council of Governors after following proper procedures as required by the trust's standing orders,

there are reasonable grounds to believe that they are likely to act in a way detrimental to the interests of the trust;

- 8.1.2 If within the last five years they have perpetrated a serious incident of violence towards any of the trust's facilities, employees or volunteers in association with their employment as defined in the trust's Violence and Aggression Policy; or
- 8.1.3 If they are not eligible to be a member in accordance with paragraphs 7.2 and 7.3 of this constitution.

9 Termination of membership

- 9.1 A member shall cease to be a member if:
 - 9.1.1 they resign by notice to the Foundation Trust Office;
 - 9.1.2 they die;
 - 9.1.3 they are disqualified from membership by paragraph 8;
 - 9.1.4 being a member of a public constituency, they cease to fulfil the requirements of paragraph 7.2; or,
 - 9.1.5 being a member of the staff constituency, they cease to fulfil the requirements of paragraph 7.3.
- 9.2 Upon ceasing to be a member, any benefits attaching to membership cease immediately.

10 The role of members

- 10.1 The role of members is to demonstrate their support to the trust and should they wish to, and be eligible, stand for election to be a Public Governor or Staff Governor on the Council of Governors.
- 10.2 To vote on whether to approve amendments to the constitution in relation to the powers and duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the trust) and to take such other part in the affairs of the trust as is provided in this constitution.
- 10.3 The surpluses or any profits of the trust are not to be distributed either directly or indirectly in any way at all among members of the trust.
- 10.4 Members will receive treatment by the trust on exactly the same basis as any other NHS patient.

11 The Council of Governors

11.1 The trust is to have a Council of Governors. It is to consist of elected Public and Staff Governors and appointed Stakeholder Governors.

11.2 The Council of Governors of the trust is to comprise:

11.2.1 Thirteen Public Governors, which must be more than half the total membership of the Council of Governors, are to be elected by the public constituencies as follows:

Area 1 – Harrogate and surrounding villages (five Governors);

Area 2 – Ripon and West District (two Governors);

Area 3 – Knaresborough and East District (two Governors);

Area 4 – Wetherby and Harewood wards and Alwoodley, Adel and Wharfedale and Otley and Yeadon wards (two Governors);

Area 5 – The Rest of North Yorkshire and York (one Governor); and

Area 6 – the Rest of England (one Governor).

11.2.2 Five Staff Governors from each of the following four staff classes are to be elected as follows:

Medical Practitioners' Staff Class (one Governor);

Nursing and Midwifery Staff Class (two Governors);

Other Clinical Staff Class (one Governor); and,

Non-Clinical Staff Class (one Governor).

11.2.3 Six appointed Stakeholder Governors from each of the following:

Local Medical Committee Governors to be appointed, one from each appointed by:

11.2.3.1 Harrogate and Rural District LMC (one Governor), and;

11.2.3.2 Patient Experience Stakeholder Governor

Local Authority Governors to be appointed, one from each appointed by:

11.2.3.3 North Yorkshire County Council; and,

11.2.3.4 Harrogate Borough Council.

[11.2.3.5](#) A Governor appointed by a local university or research institution.

[11.2.3.6](#) A Voluntary Organisation Governor appointed by the Council of Voluntary Services (Harrogate and Ripon).

[11.2.3.7](#) A Governor appointed by Harrogate Healthcare Facilities Management Limited.

11.3 Composition of the Council of Governors, subject to the 2006 Act, shall seek to ensure that:

11.3.1 the interests of the community served by the trust are appropriately represented; and,

11.3.2 the level of representation of the public constituencies, the staff constituency and the appointed Stakeholder Governors strikes an appropriate balance having regard to their legitimate interest in the trust's affairs.

11.4 Elected Governors

11.4.1 Subject to the composition of the Council of Governors, members of the public constituencies may elect any of their number to be Public Governors for that constituency. Members of each of the classes in the staff constituency may elect any of their number to be Staff Governors for that class.

11.4.2 If contested, the elections will take place by secret ballot in accordance with the trust's election rules using the single transferable vote system.

11.4.3 The model election rules for the Council of Governors, which govern the elections for elected Governors, are set out in Annex B to this constitution. Any subsequent variation of the model election rules shall not constitute a variation of the terms of this constitution for the purposes of paragraph 27 of this constitution.

11.5 Appointed Stakeholder Governors

- 11.5.1 The organisations set out in 11.2.3 above shall, on request, furnish the Trust the names of Governors appointed to serve and be responsible for replacement as necessary.

11.6 Council of Governors – tenure

11.6.1 Elected Governors:

- 11.6.1.1 shall normally hold office for a period of three years;
- 11.6.1.2 subject to the next sub-paragraph, are eligible for re-election after the end of that period;
- 11.6.1.3 may not hold office for more than nine years in total or three terms of office; and
- 11.6.1.4 An elected Governor who has fulfilled their term of office may not return as a Stakeholder Governor without a break of one term (three years).

cease to be a Governor if they:

- 11.6.1.5 cease to hold office;
- 11.6.1.6 cease to be a member of the public constituency to which they were elected, or;
- 11.6.1.7 cease to be a member of the class of the staff constituency to which they were elected.

11.6.2 Appointed Stakeholder Governors:

- 11.6.2.1 shall normally hold office for a maximum period of three years commencing from the date of their appointment;
- 11.6.2.2 subject to the next sub-paragraph, are eligible for re-appointment after the end of that period;
- 11.6.2.3 may not hold office for longer than nine years in total or three terms of office; and
- 11.6.2.4 shall cease to hold office if the appointing organisation terminates their appointment.

11.7 Deputy Chairman of the Council of Governors

11.7.1 The Council of Governors shall elect a Deputy Chairman from amongst the elected Governors. The Deputy Chairman shall preside in the absence of the Chairman and Vice Chairman. The Council of Governors shall operate its own procedure for electing the Deputy Chairman.

11.8 Ineligibility to be a Governor

11.8.1 A person may not become a Governor of the Trust, and if already holding such office will immediately cease to do so if:

- 11.8.1.1 they have been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out regulated activity or providing a service elsewhere which, if provided in England would be a regulated activity;
- 11.8.1.2 they are a Director of the trust, or a governor or director of another NHS Foundation Trust;
- 11.8.1.3 they are a member who shares the same household as a member of the Board of Directors of the trust;
- 11.8.1.4 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;
- 11.8.1.5 they have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it;
- 11.8.1.6 they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
- 11.8.1.7 they have within the preceding two years been dismissed from any paid employment with a health service body for reasons considered to be inappropriate by this trust;
- 11.8.1.8 they are a person whose tenure of office as the Chairman or as a member or Director of a health service body has been terminated on the grounds that their appointment is not in the

interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;

- 11.8.1.9 they have had their name removed, by a direction under paragraph 10 of the National Health Service (Performers Lists) Regulations 2004 or Section 151 of the 2006 Act (or similar provision elsewhere), and has not subsequently had their name included in such a list;
- 11.8.1.10 they are not by reason of their health capable of properly performing tasks which are intrinsic to the office for which they are elected or appointed;
- 11.8.1.11 they are a vexatious complainant of the trust, as defined by trust policy;
- 11.8.1.12 they are a vexatious litigant of the trust as defined by trust policy;
- 11.8.1.13 they are a family relation or occupant of the same household of a person who is an existing Governor of the trust;
- 11.8.1.14 any amount properly owing to the trust by them remains outstanding without good cause;
- 11.8.1.15 they do not, or cease to, fulfil the eligibility requirements as set out in this constitution.

11.9 Termination of office and removal of Governors

11.9.1 A person holding office as a Governor shall immediately cease to do so if:

- 11.9.1.1 they resign by notice in writing to the Chairman;
- 11.9.1.2 they fail to attend half of the Council of Governor meetings in any financial year, unless the other Governors are satisfied that:
 - 11.9.1.2.1 the absences were due to reasonable causes; and
 - 11.9.1.2.2 they will start attending meetings of the trust again within such a

period as the Council of
Governors consider reasonable,

- 11.9.1.3 in the case of an elected Governor, they cease to be a member of the constituency or class of the constituency by whom they were elected.
- 11.9.1.4 in the case of an appointed Stakeholder Governor the appointing organisation terminates their appointment;
- 11.9.1.5 without good reason they have failed to undertake any training which the Council of Governors or trust requires Governors to undertake;
- 11.9.1.6 they have failed to sign and deliver to the Foundation Trust Office a statement in the form required by the Council of Governors confirming acceptance of the code of conduct for Governors;
- 11.9.1.7 they refuse to sign the declaration form that they are a member of one of the public constituencies or one of the classes of the staff constituency as the case may be and are not prevented from being a member of the Council of Governors;
- 11.9.1.8 their name has been placed on a register of Schedule 1 offenders pursuant to the Sex Offences Act 2003 and/or the Children and Young Persons Act 1933 and the conviction is not spent under the Rehabilitation of Offenders Act 1974;
- 11.9.1.9 they are removed from the Council of Governors by a resolution approved by two-thirds majority of the remaining Governors on the grounds that:
 - 11.9.1.9.1 they have committed a serious breach of the code of conduct, or;
 - 11.9.1.9.2 they have acted in a manner detrimental to the interests of the trust; and,
 - 11.9.1.9.3 the Council of Governors considers that it is not in the best interests of the trust for them to continue as a Governor.

11.10 Vacancies amongst Governors

11.10.1 Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the following provisions will apply:

11.10.1.1 where the vacancy arises amongst the appointed Stakeholder Governors, the Chairman shall request that the appointing organisation appoint a replacement to hold office for the remainder of the term of office;

11.10.1.2 where the vacancy arises amongst the elected Governors, the Council of Governors shall be at liberty either:

11.10.1.2.1 to call an election within six months, provided that the period of the vacancy exceeds six months; or,

11.10.1.2.2 to invite the next highest polling eligible candidate for that seat at the most recent election, who is willing to take office to fill the seat until the next annual election, at which time the seat will become vacant and subject to election for any un-expired period of the term of office.

11.10.1.3 If no-one is available under 11.10.1.2.2, and the vacancy is for three months or less, the seat will remain vacant until the next scheduled election.

11.11 Expenses and remuneration of Governors

11.11.1 The trust may pay travelling and other expenses to Governors at such rates as it decides.

11.11.2 Governors are not to receive remuneration.

11.11.3 The Chairman will agree separate arrangements with each appointing organisation in 11.2.3 to cover the reimbursement costs of the appointed Stakeholder Governor.

11.12 Disclosure of interests

11.12.1 Any Governor who has a material interest in a matter as defined in Annex E and below shall declare such interest to

the Council of Governors and it shall be recorded in a register of interests. The Governor in question:

- 11.12.1.1 shall not be present except with the permission of the Council of Governors in any discussion of the matter; and,
 - 11.12.1.2 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 11.12.2 Any Governor who fails to disclose any interest required to be disclosed under the preceding paragraph must permanently vacate their office if required to do so by a majority of the remaining Governors.
- 11.12.3 A material interest, as defined in Annex E, is a matter of any interest held by a Governor, their spouse or partner, or member of their immediate family, in any firm or company or business which, in connection with the matter, is trading with the trust, or is likely to be considered as a potential trading partner with the trust. The exceptions which shall not be treated as material interests are as follows:
- 11.12.3.1 shares not exceeding 1% of the total shares in issue held in any company whose shares are listed on any public exchange;
 - 11.12.3.2 an employment contract held by Staff Governors;
 - 11.12.3.3 an employment contract with a Local Medical Committee;
 - 11.12.3.4 an employment contract with a Local Authority;
 - 11.12.3.5 an employment contract with an educational establishment (a university or research institute) and
 - 11.12.3.6 a contract held with a voluntary organisation.
- 11.12.4 An elected Governor may not vote at a meeting of the Council of Governors unless, before attending their first meeting, they have made a declaration in the form specified by the Council of Governors that they are a member of a public constituency or a member of the classes of the staff constituency and are not prevented from being a Governor of the Council of Governors. An elected Governor shall be

deemed to have confirmed the declaration upon attending any subsequent meeting of the Council of Governors.

12 Roles and responsibilities of the Council of Governors

- 12.1 The general duties of the Council of Governors are:
- 12.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors;
 - 12.1.2 to represent the interests of the members of the trust as a whole and the interests of the public;
 - 12.1.3 to appoint or remove the Chairman and the other Non-Executive Directors;
 - 12.1.4 to approve an appointment (by the Non-Executive Directors) of the Chief Executive;
 - 12.1.5 to appoint the Deputy Chairman of the Council of Governors;
 - 12.1.6 to decide the remuneration and allowances, and the other terms and conditions of office, of the Chairman and Non-Executive Directors;
 - 12.1.7 to appoint or remove the trust's external auditor selected from an approved list put forward by the Board of Directors;
 - 12.1.8 to consider the annual accounts, any report of the external auditor on them and the annual report;
 - 12.1.9 to provide their views to the Board of Directors when the Board of Directors is preparing the document containing information about the trust's forward planning;
 - 12.1.10 to respond as appropriate when consulted by the Board of Directors in accordance with this constitution;
 - 12.1.11 to undertake such functions as the Board of Directors shall from time to time request and which the Council of Governors shall agree;
 - 12.1.12 to prepare, and from time to time to review, the Membership Development Strategy, its policy for the composition of the Council of Governors and of the Non-Executive Directors;
 - 12.1.13 to require one or more Directors to attend a meeting of the Council of Governors for the purpose 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 or Directors' performance);

- 12.1.14 to approve any merger, acquisition, separation or dissolution application in respect of the trust before the application is made to NHS Improvement and the entering into of any significant transactions;
 - 12.1.15 to vote on whether to approve the referral of a question by a Governor to any panel appointed by NHS Improvement; and
 - 12.1.16 to approve any proposals to increase by 5% or more of the trust's 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. The proposal may be implemented only if more than half of the members of the Council of Governors of the trust voting approve its implementation.
- 12.2 The Council of Governors will conduct its business at meetings held in accordance with this constitution.
 - 12.3 All Governors will adhere to the policies and procedures of the trust, acting in the best interest of the trust at all times.
 - 12.4 The trust must take steps to secure that the Governors are equipped with the skills and knowledge they require in their capacity as such.
 - 12.5 Any amendments to the constitution in relation to the powers or duties of the Council of Governors (or otherwise in respect of the role that the Council of Governors has as part of the trust) must be put to the vote of the members and approved at the Annual Members' Meeting in accordance with paragraphs 27.3 and 27.4 of this constitution.

13 Meetings of the Council of Governors

- 13.1 The Chairman of the trust, or in his absence, the Vice Chairman of the trust, or in exceptional circumstances in the absence of both the Chairman and Vice Chairman, the Deputy Chairman of the Council of Governors shall preside at a meeting of the Council of Governors.
- 13.2 Where a conflict of interest arises for the Chairman and Vice Chairman, the Deputy Chairman of the Council of Governors shall chair that element of the meeting. In the absence of the Deputy Chairman, the Governors shall elect from their members a Governor to chair that element of the meeting. In acting as the Chairman, a Governor shall have a casting vote on that issue.

- 13.3 Meetings of the Council of Governors are to be open to members of the public except in the following circumstances:
- 13.3.1 during the consideration of any material or discussion in relation to a named person employed by or proposed to be employed by the trust;
 - 13.3.2 during the consideration of any material or discussion in relation to a named person who is, or has been, or is likely to become a patient of the trust, or a carer in relation to such a patient; and,
 - 13.3.3 during the consideration of any matter which, by reason of its nature, the Council is satisfied should be dealt with on a confidential basis.
- 13.4 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.
- 13.5 The Council of Governors is to meet at least four times per year, three of which will be general meetings and one the Annual Members' Meeting.
- 13.6 At an Annual Members' Meeting, within six months of the end of the financial year, the Council of Governors are to receive and consider the annual accounts, any report of the external auditor on them and the annual report, see 12.1.8.
- 13.7 The Council of Governors is to adopt its own standing orders for its practice and procedure, in particular for its procedure at meetings, and these shall be in accordance with Annex D.
- 13.8 A Governor, whether elected to the Council of Governors by a public constituency, elected by one of the classes of the staff constituency or nominated as a Stakeholder Governor, may not vote at a meeting of the Council of Governors unless, within one month of election or appointment, he has made a declaration of eligibility in the form set out at Annex C stating which constituency or section he is a member of and is not prevented from being a member of the Council of Governors by paragraph 8 of Schedule 7 to the 2006 Act or under this constitution.

14 Council of Governors – referral to the Panel

14.1 In this paragraph, the Panel means a panel of persons appointed by NHS Improvement to which a governor of an NHS Foundation Trust may refer a question as to whether the trust has failed or is failing:

14.1.1 to act in accordance with its constitution; or

14.1.2 to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

14.2 A Governor may refer a question to the Panel only if more than half of the members of the Council of Governors voting approve the referral.

15 Annual Members' Meeting

15.1 The trust is to hold an annual meeting of its members (Annual Members' Meeting) within six months of the end of each financial year. The Annual Members' Meeting shall be open to members of the public.

15.2 At the Annual Members' Meeting the Council of Governors shall present to the members (and in respect of presenting the documents referred to in sub-paragraphs 15.2.1 to 15.2.4, at least one member of the Board of Directors must be in attendance):

15.2.1 the annual accounts;

15.2.2 any report of the external auditor;

15.2.3 any report of any other external auditor of the trust's affairs;

15.2.4 the annual report;

15.2.5 forward planning information for the next financial year;

15.2.6 a report on steps taken to secure that (taken as a whole) the actual membership of its public constituencies is representative of those eligible for such membership;

15.2.7 the progress of the Membership Development Strategy;

15.2.8 subject to 15.5 below, any proposed changes to the constitution for the composition of the Council of Governors and of the Non-Executive Directors;

15.2.9 a report on the activities of the Nominations Committee within the previous year; and

15.2.10 the results of elections and appointment to the Council of Governors.

- 15.3 The Council of Governors will invite the external auditor to the Annual Members' Meeting.
- 15.4 Minutes of every Annual Members' Meeting, of every meeting of the Council of Governors and of every meeting of the Board of Directors are to be kept. Minutes of meetings will be taken at the next meeting and signed by the Chairman of that meeting. The signed minutes will be conclusive evidence of the events of the meeting.
- 15.5 Any amendments to the constitution in relation to the powers or duties of the Council of Governors (or otherwise in respect of the role that the Council of Governors has as part of the trust) must be put to the vote of the members and approved at the Annual Members' Meeting in accordance with paragraphs 27.3 and 27.4 of this constitution.

16 Board of Directors

- 16.1 The trust shall have a Board of Directors. It shall comprise of Executive and Non-Executive Directors.
- 16.1.1 Non-Executive Directors:
- 16.1.1.1 a Chairman, who is to be appointed by the Council of Governors; and,
- 16.1.1.2 a minimum of six Non-Executive Directors who are to be appointed by the Council of Governors.
- 16.1.2 Executive Directors:
- 16.1.2.1 a Chief Executive who is to be appointed by the Non-Executive Directors, subject to the approval of the Council of Governors;
- 16.1.2.2 the Chief Executive shall be the accounting officer;
- 16.1.2.3 a Finance Director;
- 16.1.2.4 a registered medical practitioner or a registered dentist (within the meaning of the Dentists' Act 1984);
- 16.1.2.5 a registered nurse or a registered midwife;
- 16.1.2.6 Two Executive Directors.
- 16.1.2.7 a Deputy Chief Executive who will be one of the above.

- 16.1.3 The Non-Executive Directors and Chief Executive will establish and set the Terms of Reference for a Nominations Committee for the appointment of Executive Directors. The committee should consist of the Chairman, the Chief Executive and other Non-Executive Directors. The removal of an Executive Director is subject to the application of the appropriate trust policies and procedures.
- 16.1.4 Only members of the public constituencies who are not disqualified by virtue of paragraph 11.8.1 are eligible for appointment as a Non-Executive Director.
- 16.2 Appointment and removal of Non-Executive Directors
- 16.2.1 Non-Executive Directors (including the Chairman) are to be appointed by the Council of Governors. Removal of the Chairman and other Non-Executive Directors shall require the approval of three-quarters of the members of the Council of Governors.
- 16.2.2 The Council of Governors will establish and set the terms of reference for a Nominations Committee. That committee, chaired by a Governor, will recommend to the full Council of Governors no more than one individual per Non-Executive vacancy for appointment to the Board of Directors.
- 16.2.3 The Board of Directors will identify the skills, experience and knowledge required from time to time of any vacant post of Non-Executive Directors (including the Chairman). The Board of Directors will draw on advice from external sources as necessary.
- 16.2.4 The Council of Governors will have responsibility for the handling of all further aspects of the recruitment process, including any appointment.
- 16.2.5 The trust shall publicly advertise the posts to be filled where determined by the Nominations Committee on the basis of performance or when a Non-Executive Director is approaching their final term of office.
- 16.2.6 A long list for consideration will be identified by the Nominations Committee. Only those candidates meeting the skills and experience agreed by the Board of Directors will be eligible for appointment.
- 16.2.7 For the purpose of considering the appointment of Non-Executive Directors the interview panel will include the Chairman, three Governors, at least one of whom will be a

Public Governor, an independent external assessor and the Chief Executive, acting in an ex-officio capacity. The Chief Executive has no vote.

- 16.2.8 For the purpose of considering the appointment of the Chairman of the trust, the interview panel will include four Governors, two of whom will be Public Governors, an independent external assessor and the Chief Executive, acting in an ex-officio capacity. The Chief Executive has no vote.

16.3 Terms of office of Non-Executive Directors

- 16.3.1 The Chairman and the Non-Executive Directors are to be appointed for a period of office in accordance with the terms and conditions of office decided by the Council of Governors at a general meeting. Non-Executive Directors will serve a three year period and will not normally exceed a maximum of three terms of office except in exceptional circumstances.
- 16.3.2 Any terms beyond two terms (six years) should be subject to annual endorsement of the continued appointment by the Council of Governors.

16.4 Board of Directors – roles and responsibilities

- 16.4.1 The general duty of the Board of Directors, and of each Director individually, is to act with a view to promoting the success of the trust so as to maximise the benefits for the members of the trust as a whole and for the public.
- 16.4.2 The business of the trust shall be managed by the Board of Directors who, subject to this constitution, shall exercise all the powers of the trust including:
- 16.4.2.1 to act as the critical decision making body of the trust and to be accountable for the subsequent risks and liabilities that rest with this responsibility;
 - 16.4.2.2 to set the strategic direction of the trust within the overall limits detailed in the Licence by NHS Improvement;
 - 16.4.2.3 to define its annual and longer-term objectives and agree plans to achieve them;

- 16.4.2.4 to oversee the delivery of its plan by monitoring performance against objectives and ensuring that corrective action is taken when necessary;
- 16.4.2.5 to ensure effective financial stewardship through value for money, financial control, financial planning and strategy;
- 16.4.2.6 to ensure high standards of corporate governance and personal behaviour are maintained in the conduct of business of the trust;
- 16.4.2.7 to ensure appropriate mechanisms for the appointment, appraisal and remuneration of staff;
- 16.4.2.8 to endeavour to ensure effective dialogue between the trust and the local community on its plans and performance and that these are responsive to the needs of the community; and,
- 16.4.2.9 to work collaboratively with the Council of Governors to ensure that each body understands their respective roles and responsibilities and develop practical ways of engaging and interacting with each other.
- 16.4.3 A third party dealing in good faith with the trust shall not be affected by any defect in the process by which Directors are appointed or any vacancy on the Board of Directors.
- 16.4.4 All Directors will adhere to the policies and procedures of the trust and shall act in the best interests of the trust at all times.
- 16.5 Vice Chairman
- 16.5.1 For the purposes of enabling the proceedings of the trust to be conducted in the absence of the Chair, the Council of Governors will appoint a Non-Executive Director to be Vice Chair for such a period, not exceeding the remainder of their term as a Non-Executive Director of the trust.
- 16.6 Remuneration Committees
- 16.6.1 The Remuneration Committee of Non-Executive Directors shall decide the terms and conditions of office, including remuneration and allowances, of the Executive Directors (including the Chief Executive). The Director of Workforce

and Organisational Development shall be the Secretary to this Committee. The Chief Executive shall be in attendance at the request of the Committee. Neither the Director of Workforce and Organisational Development nor the Chief Executive shall be present to the discussion of their own remuneration.

16.6.2 The Remuneration Committee of Governors shall recommend to the Council of Governors the terms and conditions of office, including remuneration and allowances, of the Non-Executive Directors, including the Chairman.

16.6.3 The remuneration for Directors is to be disclosed in the annual report.

16.7 Disqualification

16.7.1 A person may not become or continue as a Director of the trust if:

16.7.1.1 they are not of good character;

16.7.1.2 they do not have the qualifications, competence, skills and experience which are intrinsic for the work for which they are to be appointed, or have been appointed;

16.7.1.3 they have been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out a regulated activity or providing a service which, if provided in England, would be a regulated activity;

16.7.1.4 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

16.7.1.5 they have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it;

16.7.1.6 they are the subject of a bankruptcy restriction order or an interim bankruptcy restriction order or an order to like effect made in Scotland or Northern Ireland;

16.7.1.7 they are a person to whom a moratorium period under a debt relief order applied under Part

- VIIA (Debt Relief Order) of the Insolvency Act 1986;
- 16.7.1.8 they are included on the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland;
- 16.7.1.9 they are prohibited from holding the relevant office or position or from carrying on the regulated activity, by or under enactment;
- 16.7.1.10 they have within the preceding five years been convicted in the British Islands of any offence, and a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed on them;
- 16.7.1.11 any amount properly owing to the trust by them remains outstanding without good cause;
- 16.7.1.12 they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
- 16.7.1.13 in the case of a Non-Executive Director, they are no longer a member of a public constituency;
- 16.7.1.14 they are a person whose tenure of office as a Chairman or as a member or Director of a health service body has been terminated on the grounds that their appointing is not in the interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
- 16.7.1.15 they have had their name removed by a direction under paragraph 10 of the National Health Service (Performers Lists) Regulations 2004 or Section 151 of the 2006 Act (or similar provision elsewhere) and have not subsequently had their name included on such a list;
- 16.7.1.16 they have within the preceding two years been dismissed, for reasons considered to be

inappropriate by the trust, from any paid employment with a health service body;

16.7.1.17 in the case of a Non-Executive Director they have without good reason failed to fulfil any training requirement established by the Board of Directors;

16.7.1.18 in the case of a Non-Executive Director they have failed to sign and deliver to the Company Secretary, a statement in the form required by the Board of Directors, confirming acceptance of the code of conduct for Directors.

16.8 Meetings of the Board of Directors

16.8.1 Meetings of the Board of Directors shall be open to members of the public unless the Board of Directors decides otherwise in relation to all or part of such meetings having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest. The Chairman may exclude any member of the public and representatives of the press from any meeting or part of meeting of the Board of Directors if they are interfering with or preventing the proper conduct of the meeting.

16.8.2 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting and a copy of the draft minutes of the previous meeting to the Council of Governors.

16.8.3 The Board of Directors shall meet at the direction of the Chairman. Standing orders govern the proceedings and business of meetings. The proceedings shall not however be invalidated by any vacancy of its membership, or defect in a Director's appointment.

16.9 Committees and delegation

16.9.1 The Board of Directors shall have a schedule of delegation. Any of the powers of the Board may be delegated, whether to a committee, group of Directors, or to an Executive Director, subject to the Board maintaining a list of powers reserved to itself.

16.9.2 The Board of Directors shall appoint an Audit Committee of Non-Executive Directors to monitor the exercise of the external auditor's functions and perform such monitoring, reviewing and other functions as the Board of Directors shall consider appropriate. The Audit Committee shall function pursuant to its terms of reference.

16.10 Conflicts of interest

16.10.1 The duties that a Director has by virtue of being a Director include in particular:

16.10.1.1 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;

16.10.1.2 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.

16.10.2 The duty referred to in sub-paragraph 16.10.1.1 of this constitution is not infringed if:

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

16.10.2.2 the matter has been authorised in accordance with this constitution.

16.10.3 The duty referred to in sub-paragraph 16.10.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

16.10.4 In sub-paragraph 16.10.1.2 of this constitution. "third party" means a person other than:

16.10.4.1 the trust; or

16.10.4.2 a person acting on its behalf.

16.10.5 If a Director has in any way a direct or indirect interest in a proposed transaction or arrangement with the trust, which includes a relevant and material interest in a matter as defined in Annex E and at 16.10.10 below, the Director must declare the nature and extent of that interest to the other Directors and it shall be recorded at the earliest opportunity and before the next meeting of the Board of Directors in a register of interests. The Director in question:

16.10.5.1 shall not be present except with the permission of the Board of Directors in any discussion of the matter; and,

- 16.10.5.1 shall not vote on the issue (and if by inadvertence they do remain and vote, their vote shall not be counted).
- 16.10.5.3 It shall be a disciplinary offence on the part of a Director wilfully to fail to disclose any interest required to be disclosed under the preceding paragraph.
- 16.10.6 Any declaration required by this paragraph 16.10 must be made before the trust enters into the transaction or arrangement.
- 16.10.7 If a declaration under this paragraph 16.10 proves to be, or becomes inaccurate or incomplete, a further declaration must be made.
- 16.10.8 This paragraph 16.10 of the constitution 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.
- 16.10.9 A Director need not declare an interest:
- 16.10.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;
- 16.10.9.1 If, or to the extent that, the Directors are already aware of it;
- 16.10.9.2 If, or to the extent that, it concerns terms of the Director's appointment that have been or are to be considered:
- 16.10.9.2.1 By a meeting of the Board of Directors; or
- 16.10.9.2.2 By a committee of the Directors appointed for the purpose under this constitution.
- 16.10.10 A material interest in a matter, as defined in Annex E, is any interest held by a Director, their spouse or partner, or a member of immediate family, in any firm or company or business which in connection with the matter is trading with the trust or is likely to be considered as a potential trading partner with the trust. The exceptions which shall not be treated as material interests are as follows:

- 16.10.10.1 shares not exceeding 1% of the total shares in issue held in any company whose shares are listed on any public exchange; and,
- 16.10.10.2 an employment contract with an appointing organisation held by a Non-Executive Director.

16.11 Expenses

- 16.11.1 The trust may pay travelling and other expenses to Executive Directors and Non-Executive Directors at such rates as it decides.

17 Roles and responsibilities of the Secretary of the trust

- 17.1 The trust shall have a Secretary. The Secretary shall not be a member of the Council of Governors or the Chief Executive or the Finance Director. The Secretary may be styled as the Company Secretary whose functions shall include responsibility for:
 - 17.1.1 acting as Secretary to the Council of Governors and the Board of Directors and such committees as may from time to time be required by either the Board or Council;
 - 17.1.2 summoning and attending all meetings of the Council of Governors and the Board of Directors and keeping the minutes of those meetings;
 - 17.1.3 keeping the register of members and other registers required by this constitution to be kept;
 - 17.1.4 publishing to members, in appropriate form, information about the trust's affairs; and
 - 17.1.5 preparing and sending to NHS Improvement, and any other statutory body, all returns which are required to be made.

18 Registers

- 18.1 The trust is to have:
 - 18.1.1 a register of members showing, in respect of each member, the constituency to which he belongs and, where there are classes within it, the class to which he belongs;
 - 18.1.2 a register of the Council of Governors;
 - 18.1.3 a register of interests of the Council of Governors;

- 18.1.4 a register of Directors; and
- 18.1.5 a register of interests of the Board of Directors.
- 18.2 The Foundation Trust Office shall remove from the register of members the name of any member who ceases to be entitled to be a member under the provisions of this constitution, or opts out under the staff membership scheme, and will add the name of anyone who applies to be and becomes a member.
- 18.3 The trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the trust, if the member so requests.
- 18.4 So far as the registers are required to be made available:
 - 18.4.1 they are to be available for inspection free of charge at all reasonable times; and
 - 18.4.2 a person who requests a copy of, or extract from, the registers is to be provided with a copy or extract.
- 18.5 If the person requesting a copy or extract is not a member of the trust, the trust may impose a reasonable charge for doing so.

19 Public documents

- 19.1 The following documents of the trust are to be available for inspection by members of the public at all reasonable times and shall be available on the trust's website, in line with the trust's Freedom of Information Policy:
 - 19.1.1 a copy of the current constitution;
 - 19.1.2 a copy of the latest annual accounts and of any report of the external auditor on them;
 - 19.1.3 a copy of the report of any other external auditor of the trust's affairs appointed by the Council of Governors;
 - 19.1.4 a copy of the latest annual report;
- 19.2 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:
 - 19.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State's rejection of final

- report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act;
- 19.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act;
- 19.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act;
- 19.2.4 a copy of any draft report published under section 65F (administrator's draft report) of the 2006 Act;
- 19.2.5 a copy of any statement provided under section 65F (administrator's draft report) of the 2006 Act;
- 19.2.6 a copy of any notice published under section 65F (administrator's draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (NHS Improvement's decision), 65KB (Secretary of State's response to NHS Improvement's decision), 65KC (action following Secretary of State's rejection of final report) or 65KD (Secretary of State's response to re-submitted final report) of the 2006 Act;
- 19.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act;
- 19.2.8 a copy of any final report published under section 65I (administrator's final report) of the 2006 Act;
- 19.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State's rejection of final report) of the 2006 Act; and,
- 19.2.10 a copy of any information published under section 65M (replacement of trust special administration) of the 2006 Act.
- 19.3 Any person who requests a copy of, or extract from any of the above documents, is to be provided with a copy. 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.

20 External auditor

- 20.1 The trust is to have an external auditor and is to provide the auditor with every facility and all information which he may reasonably require for the purposes of his functions under Schedule 10 to the 2006 and paragraph 23 of Schedule 7 to the 2006 Act.
- 20.2 A person may only be appointed as the external auditor if he (or in the case of a firm of each of its members) is a member of one or more of

the bodies referred to in paragraph 23 (4) of Schedule 7 to the 2006 Act.

- 20.3 The Council of Governors at a general meeting shall appoint or remove the trust's external auditors.
- 20.4 The external auditor is to carry out his duties in accordance with Schedule 15 to the 2006 Act and in accordance with any directions given by NHS Improvement on standards, procedures and techniques to be adopted.
- 20.5 The Board of Directors shall nominate a list of external auditors to be considered for appointment by the Council of Governors and may resolve that external auditors be appointment to review any other aspect of the trust's performance. Any such external auditors are to be appointed by the Council of Governors.

21 Accounts

- 21.1 The trust must keep proper accounts and proper records in relation to the accounts.
- 21.2 NHS Improvement may, with the approval of the Secretary of State, give directions to the trust as to the content and form of the accounts.
- 21.3 The accounts are to be audited by the trust's external auditor.
- 21.4 The trust shall prepare in respect of each financial year annual accounts in such form as NHS Improvement may with the approval of the Secretary of State direct.
- 21.5 The annual accounts, any report of the external auditor on them, and the annual report are to be presented and considered at a Council of Governors meeting. The trust may combine a meeting of the Council of Governors convened for the purposes of this paragraph with the Annual Members' Meeting.
- 21.6 The trust shall lay a copy of the annual accounts, and any report of the external auditor on them, before Parliament and send copies of those documents to NHS Improvement within such period as NHS Improvement may direct.

22 Annual reports, forward plans and non-NHS work

- 22.1 The trust is to prepare annual reports and send them to NHS Improvement.
- 22.2 The trust shall give information as to its forward planning in respect of each financial year to NHS Improvement. The document containing this information is to be prepared by the Directors, and in preparing the

document, the Board of Directors must have regard to the views of the Council of Governors.

- 22.3 Each forward plan must include information about:
- 22.3.1 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
 - 22.3.2 the income it expects to receive from doing so.
- 22.4 Where a forward plan contains a proposal that the trust carry on an activity of a kind mentioned in sub-paragraph 22.3.1, the Council of Governors must:
- 22.4.1 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
 - 22.4.2 notify the Directors of the trust of its determination.
- 22.5 A trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the Council of Governors of the trust voting approve its implementation.

23 Presentation of the annual accounts and reports to the Governors and members

- 23.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors for consideration:
- 23.1.1 the annual accounts;
 - 23.1.2 any report of the external auditor on them; and
 - 23.1.3 the annual report.
- 23.2 The documents shall also be presented to the members of the trust at the Annual Members' Meeting with at least one member of the Board of Directors in attendance.
- 23.3 The trust may combine a meeting with the Council of Governors convened for the purposes of sub-paragraph 23.1 with the Annual Members' Meeting.

24 Indemnity

- 24.1 The Council of Governors and the Board of Directors and officers of the trust, acting honestly and in good faith, will be indemnified against personal liability incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the trust. The trust may purchase and maintain insurance against this risk.

25 Execution of documents

- 25.1 The trust is to have a seal, but this is not to be affixed except under the authority of the Board of Directors.
- 25.2 A document purporting to be duly executed under the trust's seal, or to be signed on its behalf, is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

26 Dispute resolution procedures

- 26.1 Other than where specified in the constitution or the standing orders of the Council of Governors, questions of eligibility, procedure and administrative matters in relation to governorship or meetings of members or Governors shall be determined by the Secretary, with the right of appeal to a committee of the Council of Governors convened for the purpose of this, whose decision shall be final and binding except in the case of manifest error.
- 26.2 Other than where specified in the constitution or the standing orders for the Board of Directors, questions of procedure and administrative matters in relation to directorship or meetings of Directors shall be determined by the Secretary, with the right of appeal to the Board of Directors convened for the purpose of this, whose decision shall be final and binding except in the case of manifest error.

27 Amendment of the constitution

- 27.1 No amendment shall be made to this constitution unless:
- 27.1.1 More than half of the members of the Council of Governors of the trust voting approve the amendments; and,
- 27.1.2 More than half of the members of the Board of Directors of the trust voting approve the amendments.

- 27.2 Amendments made under paragraph 27.1 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.
- 27.3 Where an amendment is made to the constitution in relation to the powers or duties of the Council of Governors, or otherwise with respect to the role that the Council of Governors has as part of the trust:
- 27.3.1 at least one member of the Council of Governors must attend the next Annual Members' Meeting and present the amendment; and,
- 27.3.2 the trust must give the members an opportunity to vote on whether they approve the amendment.
- 27.4 If more than half of the members voting approve the amendment, the amendment continues to have effect, otherwise it ceases to have effect and the trust must take such steps as are necessary as a result.
- 27.5 Amendments by the trust of its constitution are to be notified to NHS Improvement. For the avoidance of doubt, NHS Improvement's functions do not include a power or duty to determine whether or not the constitution as a result of the amendments accords with Schedule 7 of the 2006 Act.

28 Mergers etc. and significant transactions

- 28.1 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.
- 28.2 The trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the trust voting approve entering into the transaction.
- 28.3 Significant transaction means a transaction which would not otherwise require the approval of the Council of Governors under paragraph 28.1 above which meets any one of the criteria below:

Assets:

The gross assets subject to the transaction are greater than 25% of the trust's existing gross assets.

Income:

The income attributable to the assets or the contract associated with the transaction is greater than 25% of the trust's overall income.

Consideration to total trust capital

The gross capital of the company or business being acquired/divested, is greater than 25% of the total capital of the trust following completion, or the effects on the total capital of the trust resulting from a transaction.

28.4 For the purposes of this paragraph:

28.4.1 "gross assets" is the total of fixed assets and current assets;

28.4.2 "gross capital" is the market value of the target's shares and debt securities, plus the excess of current liabilities over current assets; and

28.4.3 "total capital" is the taxpayers' equity.

28.5 Material transaction means:

28.4.1 If a transaction meets the criteria above, but the details are greater than 10% of the assets, income or total capital of the trust, it is considered to be a material transaction. Material transactions do not require more than half of the Council of Governors to vote to approve entering into the transaction however, the trust would undertake consultation with the Council of Governors prior to entering into a material transaction.

29 Head office and website

29.1 The trust's head office is at:

29.1.1 Harrogate and District NHS Foundation Trust, Lancaster Park Road, Harrogate, HG2 7SX.

29.2 The trust maintains a website, the current address of which is:

29.2.1 www.hdft.nhs.uk

29.3 The trust will display its name on the outside of its head office and at every other place at which it carries on business, and on its business letters, notices, advertisements and other publications.

29.4 Changes to the address and website will require a change to the constitution and will need to be approved by the Board of Directors and Council of Governors.

Annex A

1 Area of the trust

Eligibility to become a public member will be available to people living within the defined catchment area of the trust. This includes residents from the following Local Authority electoral areas (as defined for the purposes of local government elections):

- ❖ Harrogate and surrounding villages
- ❖ Ripon and West District
- ❖ Knaresborough and East District
- ❖ Wetherby and Harewood
- ❖ Alwoodley
- ❖ Otley and Yeadon
- ❖ Adel and Wharfedale
- ❖ The Rest of North Yorkshire and York
- ❖ The Rest of England

Membership will remain valid whilst ever a person resides in the above catchment areas.

Public constituencies with minimum numbers as described in 7.2.2:

Public constituency area 1 – Harrogate and surrounding villages is defined by the following electoral wards of Harrogate District Council:

Killinghall, Ripley, Washburn and Harrogate (including: Stray, Hookstone, Rossett, Pannal, Harlow Moor, Saltergate, New Park, Low Harrogate, High Harrogate, Bilton, Woodfield, Granby and Starbeck).

Public constituency area 2 - Ripon and West District is defined by the following electoral wards of Harrogate District Council:

Pateley Bridge, Mashamshire, Kirkby Malzeard, Nidd Valley, Lower Nidderdale, Bishop Monkton, Wathvale and Ripon (including Spa, Minster and Moorside).

Public constituency area 3 – Knaresborough and East District is defined by the following electoral wards of Harrogate District Council:

Newby, Boroughbridge, Claro, Ouseburn, Ribston, Marston Moor, Spofforth with Lower Wharfedale and Knaresborough (including Scriven Park, East and King James).

Public constituency area 4 – Wetherby, and Harewood including Otley and Yeadon, Adel and Wharfedale and Alwoodley Wards are defined by the Wetherby and Harewood electoral Wards of Leeds City Council.

Public Constituency Area 5 – rest of North Yorkshire and York is defined as those areas not served by public constituency areas 1 – 3.

Public Constituency Area 6 – the rest of England is defined as those areas not served by public constituency areas 1 – 5.

- 2 Staff constituency as defined in 7.3.1, with minimum numbers as described in 7.3.7

The Nursing and Midwifery Staff Class;

The Medical Practitioners' Staff Class;

The Other Clinical Staff Class; and,

The Non-Clinical Staff Class.

DRAFT FOR APPROVAL

Annex B

MODEL ELECTION RULES

PART 1: INTERPRETATION

1. Interpretation

PART 2: TIMETABLE FOR ELECTION

2. Timetable
3. Computation of time

PART 3: RETURNING OFFICER

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

PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

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

PART 5: CONTESTED ELECTIONS

19. Poll to be taken by ballot
20. The ballot paper
21. The declaration of identity (public and patient constituencies)

Action to be taken before the poll

22. List of eligible voters
23. Notice of poll
24. Issue of voting information by returning officer
25. Ballot paper envelope and covering envelope
26. E-voting systems

The poll

- 27. Eligibility to vote
- 28. Voting by persons who require assistance
- 29. Spoilt ballot papers and spoilt text message votes
- 30. Lost voting information
- 31. Issue of replacement voting information
- 32. ID declaration form for replacement ballot papers (public and patient constituencies)
- 33. Procedure for remote voting by internet
- 34. Procedure for remote voting by telephone
- 35. Procedure for remote voting by text message

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

- 36. Receipt of voting documents
- 37. Validity of votes
- 38. Declaration of identity but no ballot (public and patient constituency)
- 39. De-duplication of votes
- 40. Sealing of packets

PART 6: COUNTING THE VOTES

- STV41. Interpretation of Part 6
- 42. Arrangements for counting of the votes
- 43. The count
- STV44. Rejected ballot papers and rejected text voting records
- FPP44. Rejected ballot papers and rejected text voting records
- STV45. First stage
- STV46. The quota
- STV47. Transfer of votes
- STV48. Supplementary provisions on transfer
- STV49. Exclusion of candidates
- STV50. Filling of last vacancies
- STV51. Order of election of candidates
- FPP51. Equality of votes

PART 7: FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

- FPP52. Declaration of result for contested elections
- STV52. Declaration of result for contested elections
- 53. Declaration of result for uncontested elections

PART 8: DISPOSAL OF DOCUMENTS

- 54. Sealing up of documents relating to the poll
- 55. Delivery of documents

56. Forwarding of documents received after close of the poll
57. Retention and public inspection of documents
58. Application for inspection of certain documents relating to election

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

- FPP59. Countermand or abandonment of poll on death of candidate
- STV59. Countermand or abandonment of poll on death of candidate

PART 10: ELECTION EXPENSES AND PUBLICITY

Expenses

60. Election expenses
61. Expenses and payments by candidates
62. Expenses incurred by other persons

Publicity

63. Publicity about election by the corporation
64. Information about candidates for inclusion with voting information
65. Meaning of “for the purposes of an election”

PART 11: QUESTIONING ELECTIONS AND IRREGULARITIES

66. Application to question an election

PART 12: MISCELLANEOUS

67. Secrecy
68. Prohibition of disclosure of vote
69. Disqualification
70. Delay in postal service through industrial action or unforeseen event

PART 1: INTERPRETATION

1. Interpretation

1.1 In these rules, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

“*NHS Improvement*” means the corporate body known as NHS Improvement as provided by section 61 of the 2012 Act;

“*numerical voting code*” has the meaning set out in rule 64.2(b)

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

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

“*telephone short code*” means a short telephone number used for the

purposes of submitting a vote by text message;

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

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

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

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

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

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

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

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

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

PART 2: TIMETABLE FOR ELECTIONS

2. Timetable

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

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

3. Computation of time

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

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

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

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

PART 3: RETURNING OFFICER

4. Returning Officer

- 4.1 Subject to rule 69, the returning officer for an election is to be appointed by the corporation.
- 4.2 Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

5. Staff

- 5.1 Subject to rule 69, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure

- 6.1 The corporation is to pay the returning officer:
- (a) any expenses incurred by that officer in the exercise of his or her functions under these rules,
 - (b) such remuneration and other expenses as the corporation may determine.

7. Duty of co-operation

- 7.1 The corporation is to co-operate with the returning officer in the exercise of his or her functions under these rules.

PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of election

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

9. Nomination of candidates

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

- 9.2 The returning officer:

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

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

10. Candidate's particulars

- 10.1 The nomination form must state the candidate's:

- (a) full name,

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

11. Declaration of interests

11.1 The nomination form must state:

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

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

12. Declaration of eligibility

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

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

13. Signature of candidate

13.1 The nomination form must be signed and dated by the candidate, in a manner prescribed by the returning officer, indicating that:

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

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

14. Decisions as to the validity of nomination

14.1 Where a nomination form is received by the returning officer in accordance

with these rules, the candidate is deemed to stand for election unless and until the returning officer:

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

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

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

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

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

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

15. **Publication of statement of candidates**

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

15.2 The statement must show:

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

as given in their nomination form.

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

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

16. Inspection of statement of nominated candidates and nomination forms

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

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

17. Withdrawal of candidates

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

18. Method of election

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

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

18.3 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be council of governors, then:

- (a) the candidates who remain validly nominated are to be declared

elected in accordance with Part 7 of these rules, and

- (b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.

DRAFT FOR APPROVAL

PART 5: CONTESTED ELECTIONS

19. Poll to be taken by ballot

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

20. The ballot paper

- 20.1 The ballot of each voter (other than a voter who casts his or her ballot by an e-voting method of polling) is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.
- 20.2 Every ballot paper must specify:
- (a) the name of the corporation,
 - (b) the constituency, or class within a constituency, for which the election is being held,
 - (c) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
 - (d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (e) instructions on how to vote by all available methods of polling, including the relevant voter's voter ID number if one or more e-voting methods of polling are available,
 - (f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
 - (g) the contact details of the returning officer.
- 20.3 Each ballot paper must have a unique identifier.
- 20.4 Each ballot paper must have features incorporated into it to prevent it from being reproduced.

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

- 21.1 The corporation shall require each voter who participates in an election for a public or patient constituency to make a declaration confirming:
- (a) that the voter is the person:
 - (i) to whom the ballot paper was addressed, and/or
 - (ii) to whom the voter ID number contained within the e-voting information was allocated,
 - (b) that he or she has not marked or returned any other voting information in the election, and
 - (c) the particulars of his or her qualification to vote as a member of the constituency or class within the constituency for which the election is being held,

(“declaration of identity”)

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

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

Action to be taken before the poll

22. List of eligible voters

- 22.1 The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 27 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.
- 22.2 The list is to include, for each member:
- (a) a postal address; and,
 - (b) the member’s e-mail address, if this has been provided
- to which his or her voting information may, subject to rule 22.3, be sent.
- 22.3 The corporation may decide that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list.

23. Notice of poll

- 23.1 The returning officer is to publish a notice of the poll stating:
- (a) the name of the corporation,
 - (b) the constituency, or class within a constituency, for which the election is being held,
 - (c) the number of members of the council of governors to be elected from that constituency, or class with that constituency,

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

24. Issue of voting information by returning officer

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

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

("postal voting information").

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

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

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

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

for the purposes of the poll.

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

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

25. Ballot paper envelope and covering envelope

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

25.2 The covering envelope is to have:

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

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

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

26. E-voting systems

- 26.1 If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as "the polling website").
- 26.2 If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as "the telephone voting facility").
- 26.3 If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as "the text message voting facility").
- 26.4 The returning officer shall ensure that the polling website and internet voting system provided will:
- (a) require a voter to:
 - (i) enter his or her voter ID number; and
 - (ii) where the election is for a public or patient constituency, make a declaration of identity;
 in order to be able to cast his or her vote;
 - (b) specify:
 - (i) the name of the corporation,
 - (ii) the constituency, or class within a constituency, for which the election is being held,
 - (iii) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
 - (iv) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
 - (v) instructions on how to vote and how to make a declaration of identity,
 - (vi) the date and time of the close of the poll, and
 - (vii) the contact details of the returning officer;
 - (c) prevent a voter from voting for more candidates than he or she is entitled to at the election;
 - (d) create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet

that comprises of-

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

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

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

with confirmation of this;

- (f) prevent any voter from voting after the close of poll.

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

- (a) require a voter to:
 - (i) provide his or her voter ID number; and
 - (ii) where the election is for a public or patient constituency, make a declaration of identity;

in order to be able to cast his or her vote;
- (b) prevent a voter from voting for more candidates than he or she is entitled to at the election;
- (d) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises of:
 - (i) the voter's voter ID number;
 - (ii) the voter's declaration of identity (where required);
 - (ii) the candidate or candidates for whom the voter has voted; and
 - (iii) the date and time of the voter's vote
- (e) if the voter's vote has been duly cast and recorded, provide the voter with confirmation of this;
- (f) prevent any voter from voting after the close of poll.

The poll

27. Eligibility to vote

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

28. Voting by persons who require assistance

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

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

29. Spoilt ballot papers and spoilt text message votes

29.1 If a voter has dealt with his or her ballot paper in such a manner that it cannot

be accepted as a ballot paper (referred to as a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.

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

30. Lost voting information

- 30.1 Where a voter has not received his or her voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.
- 30.2 The returning officer may not issue replacement voting information in respect of lost voting information unless he or she:
- (a) is satisfied as to the voter's identity,
 - (b) has no reason to doubt that the voter did not receive the original voting information,
 - (c) has ensured that no declaration of identity, if required, has been returned.
- 30.3 After issuing replacement voting information in respect of lost voting information, the returning officer shall enter in a list ("the list of lost ballot documents"):
- (a) the name of the voter
 - (b) the details of the unique identifier of the replacement ballot paper, if applicable, and
 - (c) the voter ID number of the voter.

31. Issue of replacement voting information

- 31.1 If a person applies for replacement voting information under rule 29 or 30 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 29.3 or 30.2, he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.
- 31.2 After issuing replacement voting information under this rule, the returning officer shall enter in a list ("the list of tendered voting information"):
- (a) the name of the voter,
 - (b) the unique identifier of any replacement ballot paper issued under this rule;
 - (c) the voter ID number of the voter.

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

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

Polling by internet, telephone or text

33. Procedure for remote voting by internet

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

34. Voting procedure for remote voting by telephone

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

35. Voting procedure for remote voting by text message

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

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

36. Receipt of voting documents

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

37. Validity of votes

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

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

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

- (a) mark the ballot paper “disqualified”,
- (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
- (c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and
- (d) place the document or documents in a separate packet.

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

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

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

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

38. Declaration of identity but no ballot paper (public and patient constituency)¹

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

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

¹ It should not be possible, technically, to make a declaration of identity electronically without also submitting a vote.

39. De-duplication of votes

- 39.1 Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.
- 39.2 If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:
- (a) only accept as duly returned the first vote received that was cast using the relevant voter ID number; and
 - (b) mark as “disqualified” all other votes that were cast using the relevant voter ID number
- 39.3 Where a ballot paper is disqualified under this rule the returning officer shall:
- (a) mark the ballot paper “disqualified”,
 - (b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
 - (c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;
 - (d) place the document or documents in a separate packet; and
 - (e) disregard the ballot paper when counting the votes in accordance with these rules.
- 39.4 Where an internet voting record, telephone voting record or text voting record is disqualified under this rule the returning officer shall:
- (a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
 - (b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents;
 - (c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet, and
 - (d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

40. Sealing of packets

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

packets containing:

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

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

DRAFT FOR APPROVAL

PART 6: COUNTING THE VOTES

STV41. Interpretation of Part 6

STV41.1 In Part 6 of these rules:

“ballot document” means a ballot paper, internet voting record, telephone voting record or text voting record.

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

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

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

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

“non-transferable vote” means a ballot document:

(a) on which no second or subsequent preference is recorded for a continuing candidate,

or

(b) which is excluded by the returning officer under rule STV49,

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

(a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference

(b) “next available preference” means a preference which is the second, or as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored); and

(c) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, and a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on,

“quota” means the number calculated in accordance with rule STV46,

“surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a

combination of both) exceeds the quota; but references in these rules to the transfer of the surplus means the transfer (at a transfer value) of all transferable ballot documents from the candidate who has the surplus,

“stage of the count” means:

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

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

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

“transfer value” means the value of a transferred vote calculated in accordance with rules STV47.4 or STV47.7.

42. Arrangements for counting of the votes

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

42.2 The returning officer may make arrangements for any votes to be counted using vote counting software where:

- (a) the board of directors and the council of governors of the corporation have approved:
 - (i) the use of such software for the purpose of counting votes in the relevant election, and
 - (ii) a policy governing the use of such software, and
- (b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. The count

43.1 The returning officer is to:

- (a) count and record the number of:
 - (iii) ballot papers that have been returned; and
 - (iv) the number of internet voting records, telephone voting records and/or text voting records that have been created, and
- (b) count the votes according to the provisions in this Part of the rules

and/or the provisions of any policy approved pursuant to rule 42.2(ii) where vote counting software is being used.

43.2 The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.

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

STV44. Rejected ballot papers and rejected text voting records

STV44.1 Any ballot paper:

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

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

STV44.2 The returning officer is to endorse the word “rejected” on any ballot paper which under this rule is not to be counted.

STV44.3 Any text voting record:

- (a) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate,
- (b) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (c) which is unmarked or rejected because of uncertainty,

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

STV44.4 The returning officer is to endorse the word “rejected” on any text voting record which under this rule is not to be counted.

STV44.5 The returning officer is to draw up a statement showing the number of ballot papers rejected by him or her under each of the subparagraphs (a) to (d) of rule STV44.1 and the number of text voting records rejected by him or her under each of the sub-paragraphs (a) to (c) of rule STV44.3.

DRAFT FOR APPROVAL

FPP44. Rejected ballot papers and rejected text voting records

FPP44.1 Any ballot paper:

- (a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,
- (b) on which votes are given for more candidates than the voter is entitled to vote,
- (c) on which anything is written or marked by which the voter can be identified except the unique identifier, or
- (d) which is unmarked or rejected because of uncertainty,

shall, subject to rules FPP44.2 and FPP44.3, be rejected and not counted.

FPP44.2 Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

FPP44.3 A ballot paper on which a vote is marked:

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

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

FPP44.4 The returning officer is to:

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and
- (b) in the case of a ballot paper on which any vote is counted under rules FPP44.2 and FPP 44.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

FPP44.5 The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings:

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

(d) unmarked or rejected because of uncertainty,

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

FPP44.6 Any text voting record:

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

shall, subject to rules FPP44.7 and FPP44.8, be rejected and not counted.

FPP44.7 Where the voter is entitled to vote for more than one candidate, a text voting record is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

FPP44.8 A text voting record on which a vote is marked:

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

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

FPP44.9 The returning officer is to:

- (a) endorse the word "rejected" on any text voting record which under this rule is not to be counted, and
- (b) in the case of a text voting record on which any vote is counted under rules FPP44.7 and FPP 44.8, endorse the words "rejected in part" on the text voting record and indicate which vote or votes have been counted.

FPP44.10 The returning officer is to draw up a statement showing the number of rejected text voting records under the following headings:

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

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

STV45. First stage

STV45.1 The returning officer is to sort the ballot documents into parcels according to the candidates for whom the first preference votes are given.

STV45.2 The returning officer is to then count the number of first preference votes given on ballot documents for each candidate, and is to record those numbers.

STV45.3 The returning officer is to also ascertain and record the number of valid ballot documents.

STV46. The quota

STV46.1 The returning officer is to divide the number of valid ballot documents by a number exceeding by one the number of members to be elected.

STV46.2 The result, increased by one, of the division under rule STV46.1 (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as "the quota").

STV46.3 At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in rules STV47.1 to STV47.3 has been complied with.

STV47. Transfer of votes

STV47.1 Where the number of first preference votes for any candidate exceeds the quota, the returning officer is to sort all the ballot documents on which first preference votes are given for that candidate into sub- parcels so that they are grouped:

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

STV47.2 The returning officer is to count the number of ballot documents in each parcel referred to in rule STV47.1.

STV47.3 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.1(a) to the candidate for whom the next available preference is given on those ballot documents.

STV47.4 The vote on each ballot document transferred under rule STV47.3 shall be at a value ("the transfer value") which:

- (a) reduces the value of each vote transferred so that the total value of

all such votes does not exceed the surplus, and

- (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot documents on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

STV47.5 Where at the end of any stage of the count involving the transfer of ballot documents, the number of votes for any candidate exceeds the quota, the returning officer is to sort the ballot documents in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped:

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

STV47.6 The returning officer is, in accordance with this rule and rule STV48, to transfer each sub-parcel of ballot documents referred to in rule STV47.5(a) to the candidate for whom the next available preference is given on those ballot documents.

STV47.7 The vote on each ballot document transferred under rule STV47.6 shall be at:

- (a) a transfer value calculated as set out in rule STV47.4(b), or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.

STV47.8 Each transfer of a surplus constitutes a stage in the count.

STV47.9 Subject to rule STV47.10, the returning officer shall proceed to transfer transferable ballot documents until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

STV47.10 Transferable ballot documents shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are:

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

STV47.11 This rule does not apply at an election where there is only one vacancy.

STV48. Supplementary provisions on transfer

STV48.1 If, at any stage of the count, two or more candidates have surpluses, the transferable ballot documents of the candidate with the highest surplus shall be transferred first, and if:

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

STV48.2 The returning officer shall, on each transfer of transferable ballot documents under rule STV47:

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

STV48.3 All ballot documents transferred under rule STV47 or STV49 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that ballot document or, as the case may be, all the ballot documents in that sub-parcel.

STV48.4 Where a ballot document is so marked that it is unclear to the returning officer at any stage of the count under rule STV47 or STV49 for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot document as a non-transferable vote; and votes on a ballot document shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

STV49. Exclusion of candidates

- STV49.1 If:
- (a) all transferable ballot documents which under the provisions of rule STV47 (including that rule as applied by rule STV49.11) and this rule are required to be transferred, have been transferred, and
 - (b) subject to rule STV50, one or more vacancies remain to be filled, the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where rule STV49.12 applies, the candidates with the then lowest votes).
- STV9.2 The returning officer shall sort all the ballot documents on which first preference votes are given for the candidate or candidates excluded under rule STV49.1 into two sub-parcels so that they are grouped as:
- (a) ballot documents on which a next available preference is given, and
 - (b) ballot documents on which no such preference is given (thereby including ballot documents on which preferences are given only for candidates who are deemed to be elected or are excluded).
- STV49.3 The returning officer shall, in accordance with this rule and rule STV48, transfer each sub-parcel of ballot documents referred to in rule STV49.2 to the candidate for whom the next available preference is given on those ballot documents.
- STV49.4 The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.
- STV49.5 If, subject to rule STV50, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable ballot documents, if any, which had been transferred to any candidate excluded under rule STV49.1 into sub- parcels according to their transfer value.
- STV49.6 The returning officer shall transfer those ballot documents in the sub-parcel of transferable ballot documents with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those ballot documents (thereby passing over candidates who are deemed to be elected or are excluded).
- STV49.7 The vote on each transferable ballot document transferred under rule STV49.6 shall be at the value at which that vote was received by the candidate excluded under rule STV49.1.
- STV49.8 Any ballot documents on which no next available preferences have been expressed shall be set aside as non-transferable votes.
- STV49.9 After the returning officer has completed the transfer of the ballot documents in the sub-parcel of ballot documents with the highest transfer value he or she shall proceed to transfer in the same way the sub-parcel of ballot

documents with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under rule STV49.1.

STV49.10 The returning officer shall after each stage of the count completed under this rule:

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

STV49.11 If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with rules STV47.5 to STV47.10 and rule STV48.

STV49.12 Where the total of the votes of the two or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the returning officer shall in one operation exclude such two or more candidates.

STV49.13 If when a candidate has to be excluded under this rule, two or more candidates each have the same number of votes and are lowest:

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

STV50. Filling of last vacancies

STV50.1 Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

STV50.2 Where only one vacancy remains unfilled and the votes of any one

continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.

STV50.3 Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

STV51. Order of election of candidates

STV51.1 The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule STV47.10.

STV51.2 A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.

STV51.3 Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

STV51.4 Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

FPP51. Equality of votes

FPP51.1 Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

FPP52. Declaration of result for contested elections

FPP52.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

- (a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the council of governors from the constituency, or class within a constituency, for which the election is being held to be elected,
- (b) give notice of the name of each candidate who he or she has declared elected:

- (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation; and
- (c) give public notice of the name of each candidate whom he or she has declared elected.

FPP52.2 The returning officer is to make:

- (a) the total number of votes given for each candidate (whether elected or not), and
- (b) the number of rejected ballot papers under each of the headings in rule FPP44.5,
- (c) the number of rejected text voting records under each of the headings in rule FPP44.10,

available on request.

STV52. Declaration of result for contested elections

STV52.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

- (a) declare the candidates who are deemed to be elected under Part 6 of these rules as elected,
- (b) give notice of the name of each candidate who he or she has declared elected –
 - (i) where the election is held under a proposed constitution pursuant to powers conferred on the [insert name] NHS Trust by section 33(4) of the 2006 Act, to the chairman of the NHS Trust, or
 - (ii) in any other case, to the chairman of the corporation, and
- (c) give public notice of the name of each candidate who he or she has declared elected.

STV52.2 The returning officer is to make:

- (a) the number of first preference votes for each candidate whether elected or not,
- (b) any transfer of votes,
- (c) the total number of votes for each candidate at each stage of the count at which such transfer took place,
- (d) the order in which the successful candidates were elected, and
- (e) the number of rejected ballot papers under each of the headings in rule STV44.1,

- (f) the number of rejected text voting records under each of the headings in rule STV44.3,

available on request.

53. Declaration of result for uncontested elections

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

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

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PART 8: DISPOSAL OF DOCUMENTS

54. Sealing up of documents relating to the poll

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

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

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

54.2 The returning officer must not open the sealed packets of:

- (a) the disqualified documents, with the list of disqualified documents inside it,
- (b) the list of spoilt ballot papers and the list of spoilt text message votes,
- (c) the list of lost ballot documents, and
- (d) the list of eligible voters,

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

54.3 The returning officer must endorse on each packet a description of:

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

55. Delivery of documents

55.1 Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 56, the returning officer is to forward them to the chair of the corporation.

56. Forwarding of documents received after close of the poll

56.1 Where:

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

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

57. Retention and public inspection of documents

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

57.2 With the exception of the documents listed in rule 58.1, the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

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

58. Application for inspection of certain documents relating to an election

58.1 The corporation may not allow:

- (a) the inspection of, or the opening of any sealed packet containing –
 - (i) any rejected ballot papers, including ballot papers rejected in part,
 - (ii) any rejected text voting records, including text voting records rejected in part,
 - (iii) any disqualified documents, or the list of disqualified documents,

- (iv) any counted ballot papers, internet voting records, telephone voting records or text voting records, or
 - (v) the list of eligible voters, or
- (b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage,
- by any person without the consent of the board of directors of the corporation.

58.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 58.1, and the board of directors of the corporation may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

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

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

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

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

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

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

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

PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

FPP59. Countermand or abandonment of poll on death of candidate

FPP59.1 If at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

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

FPP59.2 Where a new election is ordered under rule FPP59.1, no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned but further candidates shall be invited for that constituency or class.

FPP59.3 Where a poll is abandoned under rule FPP59.1(a), rules FPP59.4 to FPP59.7 are to apply.

FPP59.4 The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 38 and 39, and is to make up separate sealed packets in accordance with rule 40.

FPP59.5 The returning officer is to:

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

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

FPP59.6 The returning officer is to endorse on each packet a description of:

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

FPP59.7 Once the documents relating to the poll have been sealed up and endorsed pursuant to rules FPP59.4 to FPP59.6, the returning officer is to deliver them to the chairman of the corporation, and rules 57 and 58 are to apply.

STV59. Countermand or abandonment of poll on death of candidate

STV59.1 If, at a contested election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

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

STV59.2 The ballot documents which have preferences recorded for the candidate who has died are to be sealed with the other counted ballot documents pursuant to rule 54.1(a).

PART 10: ELECTION EXPENSES AND PUBLICITY

Election expenses

60. Election expenses

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

61. Expenses and payments by candidates

61.1 A candidate may not incur any expenses or make a payment (of whatever nature) for the purposes of an election, other than expenses or payments that relate to:

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

62. Election expenses incurred by other persons

62.1 No person may:

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

62.2 Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 63 and 64.

Publicity

63. Publicity about election by the corporation

63.1 The corporation may:

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

as it considers necessary.

63.2 Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 64, must be:

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

63.3 Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

64. Information about candidates for inclusion with voting information

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

64.2 The information must consist of:

- (a) a statement submitted by the candidate of no more than 250 words,
- (b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility (“numerical voting code”), and
- (c) a photograph of the candidate.

65. Meaning of “for the purposes of an election”

65.1 In this Part, the phrase “for the purposes of an election” means with a view to, or otherwise in connection with, promoting or procuring a candidate’s

election, including the prejudicing of another candidate's electoral prospects; and the phrase "for the purposes of a candidate's election" is to be construed accordingly.

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

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PART 11: QUESTIONING ELECTIONS AND THE CONSEQUENCE OF IRREGULARITIES

66. Application to question an election

- 66.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to NHS Improvement for the purpose of seeking a referral to the independent election arbitration panel (IEAP).
- 66.2 An application may only be made once the outcome of the election has been declared by the returning officer.
- 66.3 An application may only be made to NHS Improvement by:
- (a) a person who voted at the election or who claimed to have had the right to vote, or
 - (b) a candidate, or a person claiming to have had a right to be elected at the election.
- 66.4 The application must:
- (a) describe the alleged breach of the rules or electoral irregularity, and
 - (b) be in such a form as the independent panel may require.
- 66.5 The application must be presented in writing within 21 days of the declaration of the result of the election. NHS Improvement will refer the application to the independent election arbitration panel appointed by NHS Improvement.
- 66.6 If the independent election arbitration panel requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.
- 66.7 NHS Improvement shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.
- 66.8 The determination by the IEAP shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.
- 66.9 The IEAP may prescribe rules of procedure for the determination of an application including costs.

PART 12: MISCELLANEOUS

67. Secrecy

67.1 The following persons:

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

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

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

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

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

68. Prohibition of disclosure of vote

68.1 No person who has voted at an election shall, in any legal or other proceedings to question the election, be required to state for whom he or she has voted.

69. Disqualification

69.1 A person may not be appointed as a returning officer, or as staff of the returning officer pursuant to these rules, if that person is:

- (a) a member of the corporation,
- (b) an employee of the corporation,
- (c) a director of the corporation, or

- (d) employed by or on behalf of a person who has been nominated for election.

70. Delay in postal service through industrial action or unforeseen event

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

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

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

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Annex C

Form of Declaration

Harrogate and District NHS Foundation Trust
Lancaster Park Road
Harrogate
HG2 7SX

Date:

Dear Sirs

Election or Nomination to the Office of Governor

I confirm that I am a member of the **staff constituency/public constituency/have been nominated by a partner organisation** [delete as appropriate], and that I:

- am not a Director of the NHS Foundation Trust, or a governor of another NHS Foundation Trust;
- am not a public member who shares the same household as a member of the Board of Directors of the NHS Foundation Trust;
- have not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying out regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity;
- have not been adjudged bankrupt or my estate has been sequestrated and (in either case) I have not been discharged;
- have not made a composition or arrangement with, or granted a trust deed for, creditors and have not been discharged in respect of it;
- have not within the preceding 5 years been convicted in the British Islands of any offence where a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed;
- have not within the preceding two years been dismissed from any paid employment with a health for reasons considered to be inappropriate by this Trust;
- am not a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that my appointment was not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
- have not had my name removed by a direction under paragraph 10 of the National Health Service (Performers Lists) Regulations 2004 or Section 151 of the 2006 Act (or similar provisions elsewhere), and have not subsequently had my name included in such a list;
- am not able by reason of my health of properly performing tasks which are intrinsic to the office for which I am elected or appointed;
- have not had my name placed on a register of Schedule 1 offenders pursuant

to the Sex Offences Act 2003 and/ or the Children and Young Persons Act 1933 and the conviction is not spent under the Rehabilitation of Offenders Act 1974;

- am not a vexatious complainant of the NHS Foundation Trust, as defined by the Trust policy;
- am not a vexatious litigant of the NHS Foundation Trust, as defined by the Trust policy;
- am not a family relation or occupant of the same household of a person who is an existing Governor of the NHS Foundation Trust; and
- confirm any amount properly owing to the NHS Foundation Trust by me, if any, does not remain outstanding without good cause.

Yours faithfully

.....
SIGNATURE

.....
PRINTED NAME

.....
DATE

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Annex D**Council of Governors****Standing Orders****1. NOTICE**

1.1 The Council of Governors is to meet at least three times in each financial year in addition to the Annual Members' Meeting. Save in the case of emergencies or the need to conduct urgent business, the Company Secretary shall give at least seven days written notice of the date and place of every meeting of the Council of Governors to all Governors.

1.2 Meetings of the Council of Governors will normally be called at the direction of the Chairman. A meeting may also be held if ten Governors give written notice to the Company Secretary specifying the business to be carried out. The Company Secretary shall send a written notice to all Governors as soon as possible after receipt of such a request. The Company Secretary shall issue notice of a meeting on at least seven but not more than twenty-eight days' notice to discuss the specified business.

1.3 Notice of the meetings of the Council of Governors is to be given:

1.3.1 by notice sent by post, or by electronic mail where the Governor has provided an email address for service, to all Governors;

1.3.2 by notice prominently displayed at the registered office and at all of the trust's places of business;

1.3.3 by notice on the trust's website;

1.3.4 by any other method approved by the Council of Governors at least seven clear days before the date of the meeting.

1.4 The notice must:

1.4.1 be given to the Council of Governors and the Board of Directors, and to the external auditors;

1.4.2 state whether the meeting is an Annual Members' Meeting or a Council of Governors meeting;

1.4.3 give the time, date and place of the meeting; and

1.4.4 indicate the business to be dealt with at the meeting

2. QUORUM

2.1 Before a Council of Governors meeting can do business there must be a quorum present. Except where these rules say otherwise, a quorum is 12 Governors entitled to vote at the meeting, with the majority of Governors from the public constituencies.

2.2 If no quorum is present within half an hour of the time fixed for the start of the meeting, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Council of Governors determine and notice of the adjourned meeting shall be circulated to members of the Council of Governors. If a quorum is not present within half an hour of the time fixed for the start of the adjourned meeting, the number of Governors present during the meeting is to be a quorum.

3. CONDUCT OF MEETING

3.1 It is the responsibility of the Council of Governors, the Chairman of the meeting and the Company Secretary to ensure that at any meeting:

3.1.1 the issues to be decided are clearly explained;

3.1.2 sufficient information is provided to Governors to enable rational discussion to take place; and

3.1.3 where appropriate, experts in relevant fields or representatives of special interest groups are invited to address the meeting.

3.2 The Chairman of the Trust, or in their absence, the Vice Chairman of the Trust, or in exceptional circumstances in the absence of both the Chairman and Vice Chairman, the Deputy Chairman of the Council of Governors shall preside at a meeting of the Council of Governors.

Where a conflict of interest arises for the Chairman and Vice Chairman, the Deputy Chair of the Governors shall chair that element of the meeting. In these circumstances and in the absence of the Deputy Chairman, the Governors shall elect from their members, a Governor to chair that element of the meeting. In acting as the Chairman a Governor shall have a casting vote on that issue.

3.3 Where a Governor wishes to formally pose a question at the public Council of Governors meeting, they should supply this question in

writing to the Company Secretary no less than 24 hours prior to the meeting. If a query arises during the meeting that is not resolved through the discussions at the meeting, any questions to be formally posed should be supplied in writing to the Company Secretary or the Chairman.

4. VOTING

4.1 Subject to the constitution, a resolution put to the vote at a meeting of the Council of Governors shall, except where a poll is demanded or directed, be decided upon by a show of hands.

4.2 On a show of hands or on a poll, every Governor present is to have one vote. On a poll, votes may be given either personally or by proxy under arrangements laid down by the Council of Governors, and every Governor is to have one vote. In the case of an equality of votes the Chairman of the meeting is to have a casting vote, unless there is a conflict of interest as set out in 3.2. in which case the acting chairman will have both a primary and a casting vote.

4.3 Unless a poll is demanded, the result of any vote will be declared by the Chairman and entered in the minutes of the meeting. The minutes will be conclusive evidence of the result of the vote.

4.4 A poll may be directed by the Chairman or demanded either before or immediately after a vote by show of hands by not less than one-tenth of the Governor present at the meeting. A poll shall be taken immediately.

4.5 Subject to the following provisions of this paragraph, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes.

4.5.1 no resolution of the Council of Governors shall be passed if all the Public Governors present unanimously oppose it.

4.5.2 the removal of the Chairman or another Non-Executive Director requires the approval of three-quarters of the full membership of the Council of Governors.

4.6 Save as set out in 4.2 the Chairman of the Council of Governors or Vice Chairman shall not have a vote at a meeting of the Council of Governors.

5 PERSONS ENTITLED TO ATTEND MEETINGS

- 5.1 All meetings of the Council of Governors are to be open to the public unless the Council of Governors decides otherwise in relation to all or part of a meeting for reasons of commercial confidentiality or on other proper grounds as set out in the constitution. The Chairman may exclude any member of the public from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.
- 5.2 The Council of Governors may invite the Chief Executive or any other representatives of the Board of Directors, or a representative of the trust's external auditors or other advisors to attend a meeting of the Council of Governors.
- 5.3 The Chief Executive and any other Director shall have the right to attend any meeting of the Council of Governors provided that they shall not be present for any discussion of their individual relationship with the trust.

6. MEANS OF ATTENDANCE

- 6.1 The Council of Governors may agree that its Governors can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.

7. COMMITTEES

- 7.1 The Council of Governors may form advisory sub committees under written terms of reference to the Council of Governors which may include members of the Board of Directors and appropriate people (paid or unpaid) nominated by the Board of Directors and having relevant skills or experience. Those powers shall be exercised in accordance with any written instructions given by the Council of Governors. The Council of Governors will appoint the Chairman of any committee and shall specify the quorum. All acts and proceedings of any committee shall be reported to the Council of Governors.
- 7.2 The Council of Governors will establish a Nominations Committee for the purpose of making recommendations to the Council of Governors for the appointment of the Chairman and Non-Executive Directors.
- 7.3 The Council of Governors will establish a remuneration committee for the remuneration of the Chairman and Non-Executive Directors, and decisions will be taken at a meeting of the Council of Governors.

- 7.4 The Council of Governors may, through the Company Secretary, request that advisors assist them on any committee they appoint in carrying out their functions.

8. VALIDITY OF DECISIONS

- 8.1 Decisions taken in good faith at a meeting of the Council of Governors or of any committee shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or the appointment of the Council of Governors attending the meeting

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Annex E

Pursuant to Section 20 of Schedule 7 of the 2006 Act, a register of Director's and Governors' interests must be kept by each NHS Foundation Trust.

1. Declaration of Interests By Directors and Governors

- 1.1. All existing Directors (including for the purposes of this document, Non-Executive Directors) and Governors should declare relevant and material interests. Any Directors or Governors appointed or elected subsequently should do so on appointment or election.
- 1.2. Interests which should be regarded as "relevant and material" and which, for the avoidance of doubt, should be included in the register, are:
 - (a) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those of dormant companies).
 - (b) Ownership, part-ownership or directorship of private companies, business or consultancies likely or possibly seeking to do business with the NHS.
 - (c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS.
 - (d) A position of Authority in a charity or voluntary organisation in the field of health and social care.
 - (e) A position of Authority in a local council or Local Authority, for example, a Councillor.
 - (f) Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services.
 - (g) Any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the trust, including but not limited to, lenders or banks.
- 1.3. If Directors or Governors have any doubt about the relevance or materiality of an interest, this should be discussed with the Chairman.
- 1.4. At the time the interests are declared, they should be recorded in the Board of Director minutes or Council of Governor minutes as appropriate. Any changes in interests should be officially declared at the next Board meeting or Council of Governors meeting as appropriate following the change occurring. It is the obligation of the Director or Governor to inform the Secretary of the trust in writing within 7 days of becoming aware of the existence of a relevant or material interest. The Secretary will amend the register upon receipt within 3 working days.

- 1.5. During the course of a Board of Director meeting or Council of Governor meeting, if a conflict of interest is established, the Directors or Governors concerned should withdraw from the meeting and play no part in the relevant discussion or decision. For the avoidance of doubt, this includes voting on such an issue where a conflict is established. If there is a dispute as to whether a conflict of interest does exist, the majority will resolve the issue with the Chairman having the casting vote.
- 1.6. There is no requirement for the interests of Directors' or Governors' spouses or partners to be declared.

2. Register of Interests

- 2.1. The details of Directors and Governors interests recorded in the register will be kept up to date by means of a monthly review of the register by the Secretary of the trust, during which any changes of interests declared during the preceding month will be incorporated.
- 2.2. Subject to contrary regulations being passed, the register will be available for inspection by the public free of charge. The Chairman will take reasonable steps to bring the existence of the Register to the attention of the local population and to publicise arrangements for viewing it. Copies or extracts of the register must be provided to members of the trust free of charge and within a reasonable time period of the request.

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CONSTITUTION REVIEW WORKING GROUP

TERMS OF REFERENCE

1. Accountability

The Group is accountable to the Council of Governors of Harrogate and District NHS Foundation Trust.

2. Membership

The Group shall consist of:

- The Chairman
- One public Governor
- One staff Governor
- One Stakeholder Governor
- The Chief Executive
- One Non-Executive Director
- The Company Secretary

The Group may co-opt other members as required.

Administrative support shall be provided by the Membership & Corporate Affairs Manager.

3. Quorum

The quorum shall be five members including at least two Governors.

4. Frequency of Meetings

The Group will meet as and when required to consider proposed amendments to the Constitution.

5. Working Group Purpose

To review the Constitution of the Trust for:

- Statutory changes to the Constitution arising from the Health and Social Care Act 2012 and any other legislation;
- General changes to the Constitution required by regulatory bodies e.g. NHS Improvement, CQC;
- Changes due to inaccuracies or changes of title/organisation
- Any other matters agreed by the Group

6. Review of Terms of Reference

These Terms of Reference are to be reviewed at least biannually.

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