

# SHROPSHIRE COMMUNITY HEALTH NHS TRUST

Subject:	<b>Standing Orders</b>
Presented by:	Stuart Rees
Responsible Director:	Stuart Rees

## PURPOSE OF THE REPORT

- For information
- For decision
- For performance monitoring

## WHAT OTHER SUB COMMITTEES HAVE CONSIDERED THIS REPORT; THEIR KEY POINTS OR RECOMMENDATIONS

None

## KEY POINTS IN REPORT

Shropshire Community Health NHS Trust is required to establish a statutory framework for the governance and regulation of the new Trust. Attached are the Standing Orders which are part of the statutory framework.

A model regulatory framework has been provided by the Department of Health. This framework has been reviewed and tailored to meet the needs of Shropshire Community Health NHS Trust where appropriate and the attached documents are based largely on this framework.

## RECOMMENDATION TO BOARD

The Board is asked to accept this Statutory Framework as the model for Shropshire Community Health NHS Trust operating procedures.

CONTEXT AND IMPLICATIONS	
Financial implications	None
OD/Workforce implications	None
What patient and public involvement has there been in this issue, or what impact could it have on patient/public experience?	None

**Shropshire Community Health Service NHS Trust**  
Policies, Procedures, Guidelines and Protocols

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## CONTENTS

	Page
<b>1. INTRODUCTION</b>	<b>4</b>
Statutory Framework	
NHS Framework	
Delegation of Powers	
Interpretation & Definitions	
<b>2. THE TRUST BOARD : COMPOSITION OF MEMBERSHIP, TENURE &amp; ROLE OF MEMBERS</b>	<b>8</b>
Composition of the Membership of the Trust Board	
Appointment of the Chairman & Members of the Trust	
Terms of Office of the Chairman & Members	
Appointment & Powers of Vice-Chairman	
Joint Members	
Patient & Public Involvement Forum	
Role of Members	
Corporate Role of the Board	
Scheme of Reservation & Scheme of Delegation	
Lead Roles for Board Members	
<b>3. MEETINGS OF THE TRUST</b>	<b>12</b>
Calling Meetings	
Notice of Meetings & the Business to be Transacted	
Agenda & Supporting Papers	
Petitions	
Notice of Motion	
Emergency Motions	
Motions : Procedure at & During a Meeting	
Motion to Rescind a Resolution	
Chairman of Meeting	
Chairman's Ruling	
Quorum	
Voting	
Suspension of Standing Orders	
Variation & Amendment of Standing Orders	
Record of Attendance	
Minutes	
Admission of the Public & the Press	
Observers at Trust Meetings	
<b>4. APPOINTMENT OF COMMITTEES &amp; SUB-COMMITTEES</b>	<b>19</b>
Appointment of Committees	
Joint Committees	
Applicability of SOs & SFIs to Committees	
Terms of Reference	
Delegation of Powers by Committees to Sub-Committees	
Approval of Appointments to Committees	

**Appointments for Statutory Functions  
Committees Established by the Trust Board**

<b>5. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS BY DELEGATION</b>	<b>22</b>
<b>Delegation of Functions to Committees, Officers or Other Bodies</b>	
<b>Emergency Powers &amp; Urgent Decisions</b>	
<b>Delegation to Committees</b>	
<b>Delegation to Officers</b>	
<b>Scheme of Reservation &amp; Scheme of Delegation</b>	
<b>Duty to Report Non-Compliance With SOs &amp; SFIs</b>	
<b>6. OVERLAP WITH OTHER TRUST POLICY STATEMENTS/PROCEDURES, REGULATIONS &amp; SFIs</b>	<b>24</b>
<b>Policy Statements : General Principles</b>	
<b>Specific Policy Statements</b>	
<b>Standing Financial Instructions</b>	
<b>Specific Guidance</b>	
<b>7. DUTIES &amp; OBLIGATIONS OF BOARD MEMBERS/DIRECTORS &amp; SENIOR MANAGERS UNDER THESE SOs</b>	<b>25</b>
<b>Declaration of Interests</b>	
<b>Register of Interests</b>	
<b>Exclusion of Chairman &amp; Members in Proceedings on Account of     Pecuniary Interest</b>	
<b>Standards of Business Conduct</b>	
<b>8. CUSTODY OF SEAL, SEALING OF DOCUMENTS &amp; SIGNATURE OF DOCUMENTS</b>	<b>31</b>
<b>Custody of Seal</b>	
<b>Sealing of Documents</b>	
<b>Register of Sealing</b>	
<b>Use of Seal – General Guidance</b>	
<b>Signature of Documents</b>	
<b>9. MISCELLANEOUS</b>	<b>32</b>
<b>Standing Orders to be Given to Members &amp; Officers</b>	
<b>Review of Standing Orders</b>	
<b>Joint Finance Arrangements</b>	
<b>APPENDICES</b>	
<b>1. STANDARDS OF BUSINESS CONDUCT</b>	<b>33</b>

## 1. INTRODUCTION

### 1.1 Statutory Framework

- 1.1.1 The Shropshire Community Health NHS Trust (the Trust) is a statutory body which came into existence on 1 July 2011 under The Shropshire Community Health NHS Trust (Establishment) Order XXXX No. XXX (the Establishment Order).
- 1.1.2 The principal place of business of the Trust is the county of Shropshire.
- 1.1.3 NHS Trusts are governed by Acts of Parliament, mainly the National Health Service Act 1977 (NHS Act 1977), the National Health Service and Community Care Act 1990 (NHS & CC Act 1990) as amended by the Health Authorities Act 1995 and the Health Act 1999.
- 1.1.4 The functions of the Trust are conferred by this legislation.
- 1.1.5 As a statutory body, the Trust has specified powers to contract in its own name and to act as a corporate trustee. In the latter role it is accountable to the Charity Commission for those funds deemed to be charitable as well as to the Secretary of State for Health.
- 1.1.6 The Trust also has statutory powers under Section 28A of the NHS Act 1977, as amended by the Health Act 1999, to fund projects jointly planned with local authorities, voluntary organisations and other bodies..
- 1.1.7 The Code of Accountability requires the Trust to adopt Standing Orders for the regulation of its proceedings and business. The Trust must also adopt Standing Financial Instructions (SFIs) as an integral part of Standing Orders setting out the responsibilities of individuals.
- 1.1.8 The Trust will also be bound by such other statutes and legal provisions which govern the conduct of its affairs.

### 1.2 NHS Framework

- 1.2.1 In addition to the statutory requirements the Secretary of State through the Department of Health issues further directions and guidance. These are normally issued under cover of a circular or letter.
- 1.2.2 The Code of Accountability requires that, inter alia, Boards draw up a Schedule of Decisions Reserved to the Board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a Scheme of Delegation). The code also requires the establishment of audit and remuneration committees with formally agreed terms of reference. The Code of Conduct makes various requirements concerning possible conflicts of interest of Board members.

- 1.2.3 The Code of Practice on Openness in the NHS sets out the requirements for public access to information on the NHS.

### 1.3 Delegation of Powers

- 1.3.1 The Trust has powers to delegate and make arrangements for delegation. The Standing Orders set out the detail of these arrangements. Under Standing Order No. 5 relating to the “Arrangements for the Exercise of Trust Functions by Delegation”, the Trust is given powers to “make arrangements for the exercise, on behalf of the Trust of any of their functions by a committee, sub-committee or joint committee appointed by virtue of Standing Order No. 4 “Appointment of Committees and Sub-Committees” or by an officer of the Trust, in each case subject to such restrictions and conditions as the Trust thinks fit or as the Secretary of State may direct”.
- 1.3.2 Delegated Powers are covered in separate documents (Scheme of Reservation and Scheme of Delegation). These documents have effect as if incorporated into the Standing Orders and Standing Financial Instructions.

### 1.4 Interpretation & Definitions

- 1.4.1 Save as otherwise permitted by law, at any meeting the Chairman of the Trust shall be the final authority on the interpretation of Standing Orders (on which they should be advised by the Chief Executive or Secretary to the Board).
- 1.4.2 Any expression to which a meaning is given in the National Health Service Act 1977, National Health Service and Community Care Act 1990 and other Acts relating to the National Health Service or in the Financial Regulations made under the Acts shall have the same meaning in these Standing Orders and in addition, those definitions given below.
- 1.4.3 "**Accountable Officer**" means the NHS Officer responsible and accountable for funds entrusted to the Trust. The officer shall be responsible for ensuring the proper stewardship of public funds and assets. For this Trust it shall be the Chief Executive.
- 1.4.4 "**Trust**" means the Shropshire Community Health NHS Trust.
- 1.4.5 "**Board**" means the Chairman, officer and non-officer members of the Trust collectively as a body.
- 1.4.6 "**Budget**" means a resource, expressed in financial terms, proposed by the Board for the purpose of carrying out, for a specific period, any or all of the functions of the Trust.
- 1.4.7 "**Budget Holder**" means the director with delegated authority to manage finances (income and expenditure) for a specific area of the organisation.

- 1.4.8 **“Budget Manager”** means second level delegation by a Budget Holder to another Senior Manager. They can either be an employee of the Trust or of another organisation and be authorised by the Budget Holder.
- 1.4.9 **“Resource Manager”** means third level delegation by a Budget Manager to another Senior Manager. They can either be an employee of the Trust or of another organisation and be authorised by the Budget Holder.
- 1.4.10 **“Service Lead”** means an officer who has delegated responsibility from a Resource Manager for the day-to-day management of a defined budget. They can either be an employee of the Trust or of another organisation and be authorised by the Budget Holder.
- 1.4.11 **"Chairman of the Board (or Trust)"** is the person appointed by the Secretary of State for Health to lead the Board and to ensure that it successfully discharges its overall responsibility for the Trust as a whole. The expression “the Chairman of the Trust” shall be deemed to include the Vice-Chairman of the Trust if the Chairman is absent from the meeting or is otherwise unavailable.
- 1.4.12 **"Chief Executive"** means the chief officer of the Trust.
- 1.4.13 **"Director of Finance"** means the chief financial officer of the Trust.
- 1.4.14 **"Clinical Governance Committee"** means a committee whose functions are concerned with the arrangements for the purpose of monitoring and improving the quality of health care for which the Trust has responsibility.
- 1.4.15 **"Commissioning"** means the process for determining the need for and for obtaining the supply of healthcare and related services by the Trust within available resources.
- 1.4.16 **"Committee"** means a committee or sub-committee created and appointed by the Trust.
- 1.4.17 **"Committee members"** means persons formally appointed by the Board to sit on or to chair specific committees.
- 1.4.18 **"Contracting and procuring"** means the systems for obtaining the supply of goods, materials, manufactured items, services, building and engineering services, works of construction and maintenance and for disposal of surplus and obsolete assets.
- 1.4.19 **“Funds Held on Trust”** means those funds which the Trust holds on date of incorporation, receives on distribution by statutory instrument or chooses subsequently to accept under powers derived under S.90 of the NHS Act 1977, as amended. Such funds may or may not be charitable.
- 1.4.20 **"Member"** means officer or non-officer member of the Board as the context permits. Member in relation to the Board does not include its Chairman.

- 1.4.21 **“Associate Member”** means a person appointed to perform specific statutory and non-statutory duties which have been delegated by the Trust Board for them to perform and these duties have been recorded in an appropriate Trust Board minute or other suitable record.
- 1.4.22 **"Membership, Procedure and Administration Arrangements Regulations"** means NHS Membership and Procedure Regulations (SI 1990/2024) and subsequent amendments.
- 1.4.23 **"Nominated officer"** means an officer charged with the responsibility for discharging specific tasks within Standing Orders and Standing Financial Instructions.
- 1.4.24 **"Non-officer member"** means a member of the Trust who is not an officer of the Trust and is not to be treated as an officer by virtue of regulation 1(3) of the Membership, Procedure and Administration Arrangements Regulations.
- 1.4.25 **"Officer"** means employee of the Trust or any other person holding a paid appointment or office with the Trust.
- 1.4.26 **"Officer member"** means a member of the Trust who is either an officer of the Trust or is to be treated as an officer by virtue of regulation 1(3) (i.e. the Chairman of the Trust or any person nominated by such a Committee for appointment as a Trust member).
- 1.4.27 **"Secretary"** means a person appointed to act independently of the Board to provide advice on corporate governance issues to the Board and the Chairman and monitor the Trust's compliance with the law, Standing Orders, and Department of Health guidance.
- 1.4.28 **"SFIs"** means Standing Financial Instructions.
- 1.4.29 **"SOs"** means Standing Orders.
- 1.4.30 **"Vice-Chairman"** means the non-officer member appointed by the Board to take on the Chairman's duties if the Chairman is absent for any reason.



**2. THE TRUST BOARD : COMPOSITION OF MEMBERSHIP, TENURE AND ROLE OF MEMBERS**

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

- 2.1.1 In accordance with the Membership, Procedure and Administration Arrangements regulations the composition of the Board shall be as follows :-
- 2.1.2 The Chairman of the Trust (appointed by the NHS Appointments Commission).
- 2.1.3 Up to 5 non-officer members (appointed by the NHS Appointments Commission).
- 2.1.4 Up to 5 officer members (but not exceeding the number of non-officer members) including :-
- the Chief Executive
  - the Director of Finance
- 2.1.5 The Trust shall have not more than 11 and not less than 8 members (unless otherwise determined by the Secretary of State for Health and set out in the Trust's Establishment Order or such other communication from the Secretary of State).

**2.2 Appointment of the Chairman and Members of the Trust**

- 2.2.1 Appointment of the Chairman and Members of the Trust - Paragraph 4 of Schedule 5A to the 1977 Act, as inserted by the Health Act 1999, provides that the Chairman is appointed by the Secretary of State, but otherwise the appointment and tenure of office of the Chairman and members are set out in the Membership, Procedure and Administration Arrangements Regulations.

**2.3 Terms of Office of the Chairman and Members**

- 2.3.1 The regulations setting out the period of tenure of office of the Chairman and members and for the termination or suspension of office of the Chairman and members are contained in Sections 2 to 4 of the Membership, Procedure and Administration Arrangements and Administration Regulations.

**2.4 Appointment and Powers of Vice-Chairman**

- 2.4.1 Subject to Standing Order 2.4.2 below, the Chairman and members of the Trust may appoint one of their numbers, who is not also an officer member, to be Vice-Chairman, for such period, not exceeding the remainder of his/her term as a member of the Trust, as they may specify on appointing him/her.

2.4.2 Any member so appointed may at any time resign from the office of Vice-Chairman by giving notice in writing to the Chairman. The Chairman and members may thereupon appoint another member as Vice-Chairman in accordance with the provisions of Standing Order 2.4.1.

2.4.3 Where the Chairman of the Trust has died or has ceased to hold office, or where they have been unable to perform their duties as Chairman owing to illness or any other cause, the Vice-Chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes their duties, as the case may be; and references to the Chairman in these Standing Orders shall, so long as there is no Chairman able to perform those duties, be taken to include references to the Vice-Chairman.

## **2.5 Joint Members**

2.5.1 Where more than one person is appointed jointly to a post mentioned in regulation 2(4)(a) of the Membership, Procedure and Administration Arrangements Regulations those persons shall count for the purpose of Standing Order 2.1 as one person.

2.5.2 Where the office of a member of the Board is shared jointly by more than one person :-

- a) Either or both of those persons may attend or take part in meetings of the Board;
- b) If both are present at a meeting they should cast one vote if they agree;
- c) In the case of disagreements no vote should be cast;
- d) The presence of either or both of those persons should count as the presence of one person for the purposes of Standing Order 3.11 "Quorum".

## **2.6 Patient and Public Involvement Forum**

2.6.1 Section 11 of the Health and Social Care Act 2001 requires a Trust to establish a Patient and Public Involvement Forum. Further guidance can be obtained from [www.cppih.org](http://www.cppih.org)

## **2.7 Role of Members**

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

### **2.7.2 Executive Members**

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

### 2.7.3 Chief Executive

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

### 2.7.4 Director of Finance

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

### 2.7.5 Non-Executive Members

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

### 2.7.6 Chairman

The Chairman shall be responsible for the operation of the Board and chair all Board Meetings when present. The Chairman has certain delegated executive powers. The Chairman must comply with the terms of appointment and with these Standing Orders.

The Chairman shall liaise with the NHS Appointments Commission over the appointment of Non-Executive Directors and once appointed shall take responsibility either directly or indirectly for their induction, their portfolios of interests and assignments, and their performance.

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

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

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

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

2.8.3 The powers of the Trust established under statute shall be exercised by the Board meeting in public session except as otherwise provided for in Standing Order No. 3 "Meetings of the Trust".

2.8.4 The Board shall define and regularly review the functions it exercises on behalf of the Secretary of State.

**2.9 Scheme of Reservation and Scheme of Delegation**

2.9.1 The Board has resolved that certain powers and decisions may only be exercised by the Board in formal session. These powers and decisions are set out in the Scheme of Reservation and have effect as if incorporated into the Standing Orders. Those powers which it has delegated to officers and other bodies are contained in the Scheme of Delegation.

**2.10 Lead Roles for Board Members**

2.10.1 The Chairman will ensure that the designation of lead roles or appointments of Board members as required by the Department of Health or as set out in any statutory or other guidance, will be made in accordance with that guidance or statutory requirement (e.g. appointing a Lead Board Member with responsibilities for Infection Control or Child Protection Services, etc.).

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

#### **3.1 Calling Meetings**

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

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

- 3.2.1 Before each meeting of the Board a written notice specifying the business proposed to be transacted shall be delivered to every member, or sent by post to the usual place of residence of each member, so as to be available to members at least three clear days before the meeting. The notice shall be signed by the Chairman or by an officer authorised by the Chairman to sign on their behalf. Want of service of such a notice on any member shall not affect the validity of a meeting.
- 3.2.2 In the case of a meeting called by members in default of the Chairman calling the meeting, the notice shall be signed by those members.
- 3.2.3 No business shall be transacted at the meeting other than that specified on the agenda, or emergency motions allowed under Standing Order 3.6 "Emergency Motions".
- 3.2.4 A member desiring a matter to be included on an agenda shall make his/her request in writing to the Chairman at least 10 clear days before the meeting. The request should state whether the item of business is proposed to be transacted in the presence of the public and should include appropriate supporting information. Requests made less than 10 days before a meeting may be included on the agenda at the discretion of the Chairman.
- 3.2.5 Before each meeting of the Board a public notice of the time and place of the meeting, and the public part of the agenda, shall be displayed at the Trust's principal offices at least three clear days before the meeting, (required by the Public Bodies (Admission to Meetings) Act 1960 S.I.(4)(a)).

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

- 3.3.1 The Agenda will be sent to members 6 days before the meeting and supporting papers, whenever possible, shall accompany the agenda, but will certainly be despatched no later than three clear days before the meeting, save in emergency. The Board may determine that certain matters shall appear on every agenda for a meeting and shall be

addressed prior to any other business being conducted. (Such matters may be identified within these Standing Orders or following subsequent resolution shall be listed in an Appendix to the Standing Orders.)

### **3.4 Petitions**

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

### **3.5 Notice of Motion**

3.5.1 Subject to the provision of Standing Orders 3.7 “Motions: Procedure at and During a Meeting” and 3.8 “Motion to Rescind a Resolution”, a member of the Board wishing to move a motion shall send a written notice to the Chief Executive who will ensure that it is brought to the immediate attention of the Chairman.

3.5.2 The notice shall be delivered at least 10 clear days before the meeting. The Chief Executive shall include in the agenda for the meeting all notices so received that are in order and permissible under governing regulations. This Standing Order shall not prevent any motion being withdrawn or moved without notice on any business mentioned on the agenda for the meeting.

### **3.6 Emergency Motions**

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

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

#### 3.7.1 Who may propose?

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

#### 3.7.2 Contents of motions

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

- the reception of a report
- consideration of any item of business before the Trust Board
- the accuracy of minutes
- that the Board proceed to next business
- that the Board adjourn

- that the question be now put.

### 3.7.3 Amendments to motions

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

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

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

### 3.7.4 Rights of reply to motions

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

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

### 3.7.5 Withdrawing a motion

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

### 3.7.6 Motions once under debate

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

- an amendment to the motion
- the adjournment of the discussion, or the meeting
- that the meeting proceed to the next business
- that the question should now be put
- the appointment of an ad hoc committee to deal with a specific item of business
- that a member/director be not further heard
- a motion under Section 1(2) or Section 1(8) of the Public Bodies (Admission to Meetings) Act 1960 resolving to exclude the public, including the press (see Standing Order 3.17 “Admission of the Public and Press”).

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

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

## **3.8 Motion to Rescind a Resolution**

- ### 3.8.1 Notice of motion to rescind any resolution (or the general substance of any resolution) which has been passed within the preceding 6 calendar

months shall bear the signature of the member who gives it and also the signature of 3 other members, and before considering any such motion of which notice shall have been given, the Trust Board may refer the matter to any appropriate Committee or the Chief Executive for recommendation.

- 3.8.2 When any such motion has been dealt with by the Trust Board, it shall not be competent for any director/member other than the Chairman to propose a motion to the same effect within 6 months. This Standing Order shall not apply to motions moved in pursuance of a report or recommendations of a Committee or the Chief Executive.

### **3.9 Chairman of Meeting**

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

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

### **3.10 Chairman's Ruling**

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

### **3.11 Quorum**

3.11.1 No business shall be transacted at a meeting unless at least one-third of the whole number of the Chairman and members (including at least one member who is also an Officer Member of the Trust and one member who is not) is present.

3.11.2 An officer in attendance for an Executive Director (Officer Member) but without formal acting up status may not count towards the quorum.

3.11.3 If the Chairman or member has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of a declaration of a conflict of interest (see Standing Orders No.7.1 "Declaration of Interests" and 7.2 "Register of Interests") that person shall no longer count towards the quorum. If a quorum is then not available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting. The meeting must then proceed to the next business.



### **3.12 Voting**

- 3.12.1 Save as provided in Standing Orders 3.13 “Suspension of Standing Orders” and 3.14 “Variation and Amendment of Standing Orders” every question put to a vote at a meeting shall be determined by a majority of the votes of members present and voting on the question. In the case of an equal vote, the person presiding (i.e. the Chairman of the meeting) shall have a second and casting vote.
- 3.12.2 At the discretion of the Chairman all questions put to the vote shall be determined by oral expression or by a show of hands, unless the Chairman directs otherwise, or it is proposed, seconded and carried that a vote be taken by paper ballot.
- 3.12.3 If at least one-third of the members present so request, the voting on any question may be recorded so as to show how each member present voted or did not vote (except when conducted by paper ballot).
- 3.12.4 If a member so requests, their vote shall be recorded by name.
- 3.12.5 In no circumstances may an absent member vote by proxy. Absence is defined as being absent at the time of the vote.
- 3.12.6 A manager who has been formally appointed to act up for an Officer Member during a period of incapacity or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Officer Member.
- 3.12.7 A manager attending the Trust Board meeting to represent an Officer Member during a period of incapacity or temporary absence without formal acting up status may not exercise the voting rights of the Officer Member. An officer’s status when attending a meeting shall be recorded in the minutes.
- 3.12.8 For the voting rules relating to joint members see Standing Order 2.5 “Joint Members”.

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

- 3.13.1 Except where this would contravene any statutory provision or any direction made by the Secretary of State or the rules relating to the Quorum (Standing Order 3.11), any one or more of the Standing Orders may be suspended at any meeting, provided that at least two-thirds of the whole number of the members of the Board are present (including at least one member who is an Officer Member and one member who is not) and that at least two-thirds of those members present signify their agreement to such suspension.. The reason for the suspension shall be recorded in the Trust Board’s minutes.

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

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

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

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

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

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

### **3.15 Record of Attendance**

3.15.1 The names of the Chairman and directors/members present at the meeting shall be recorded.

### **3.16 Minutes**

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

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

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

3.17.1 Admission and exclusion on grounds of confidentiality of business to be transacted

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

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

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

### 3.17.2 General disturbances

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

"That in the interests of public order the meeting adjourn for (the period to be specified) to enable the Trust Board to complete its business without the presence of the public" (Section 1(8) Public Bodies (Admission to Meetings) Act 1960).

### 3.17.3 Business proposed to be transacted when the press and public have been excluded from a meeting

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

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

### 3.17.4 Use of mechanical or electrical equipment for recording or transmission of meetings

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

## 3.18 **Observers at Trust Meetings**

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

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

**4.1 Appointment of Committees**

4.1.1 Subject to such directions as may be given by the Secretary of State for Health, the Trust Board may appoint committees of the Trust.

4.1.2 The Trust shall determine the membership and terms of reference of committees and sub-committees and shall if it requires to, receive and consider reports of such committees.

**4.2 Joint Committees**

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

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

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

4.3.1 The Standing Orders and Standing Financial Instructions of the Trust, as far as they are applicable, shall as appropriate apply to meetings and any committees established by the Trust. In which case the term "Chairman" is to be read as a reference to the Chairman of other committees as the context permits, and the term "member" is to be read as a reference to a member of other committees also as the context permits. (There is no requirement to hold meetings of committees established by the Trust in public.)

**4.4 Terms of Reference**

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

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

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

**4.6 Approval of Appointments to Committees**

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

**4.7 Appointments for Statutory Functions**

4.7.1 Where the Board is required to appoint persons to a committee and/or to undertake statutory functions as required by the Secretary of State, and where such appointments are to operate independently of the Board such appointment shall be made in accordance with the regulations and directions made by the Secretary of State.

**4.8 Committees Established by the Trust Board**

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

4.8.1 Audit Committee

In line with the requirements of the NHS Audit Committee Handbook, NHS Codes of Conduct and Accountability, and more recently the Higgs report, an Audit Committee will be established and constituted to provide the Trust Board with an independent and objective review on its financial systems, financial information and compliance with laws, guidance, and regulations governing the NHS. The Terms of Reference will be approved by the Trust Board and reviewed on a periodic basis.

The Higgs report recommends a minimum of three Non-Executive Directors be appointed, unless the Board decides otherwise, of which one must have significant, recent and relevant financial experience.

4.8.2 Appointments, Nomination & Remuneration Committee

In line with the requirements of the NHS Codes of Conduct and Accountability, and more recently the Higgs report, an Appointments, Nomination and Remuneration Committee will be established and constituted.

The Higgs report recommends the Committee be comprised exclusively of Non-Executive Directors, a minimum of three, who are independent of management.

The purpose of the Committee will be to advise the Trust Board about appropriate remuneration and terms of service for the Chief Executive and other Executive Directors including :-

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

4.8.3 Resource and Performance Committee (incorporating Charitable Funds)

In line with its role as a corporate trustee for any funds held on trust, either as charitable or non-charitable funds, the Trust Board delegate authority to the Resource and Performance Committee to administer those funds in accordance with any statutory or other legal requirements, or best practice required by the Charity Commission.

4.8.4 Quality and Safety Committee

The purpose of the Quality and Safety Committee is to assure the Board of the quality of clinical services across the Trust.

4.8.5 Other Committees

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

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

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

5.1.1 Subject to such directions as may be given by the Secretary of State, the Board may make arrangements for the exercise, on behalf of the Board, of any of its functions by a committee, sub-committee appointed by virtue of Standing Order 4 “Appointment of Committees and Sub-Committees”, or by an officer of the Trust, or by another body as defined in Standing Order 5.1.2 below, in each case subject to such restrictions and conditions as the Trust thinks fit.

5.1.2 Section 16B of the NHS Act 1977 allows for regulations to provide for the functions of Trusts to be carried out by third parties. In accordance with the Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 the functions of the Trust may also be carried out in the following ways :-

- (i) by another Trust;
- (ii) jointly with any one or more of the following : NHS Trusts, Strategic Health Authorities, or PCTs;
- (iii) by a Special Health Authority (SHA) or by a committee, sub-committee or officer of a SpHA;
- (iv) by arrangement with the appropriate Trust or PCT, by a joint committee or joint sub-committee of the Trust and one or more other health service bodies;
- (v) in relation to arrangements made under S63(1) of the Health Services and Public Health Act 1968, jointly with one or more Strategic Health Authorities, SpHAs, NHS Trusts or PCTs.

5.1.3 Where a function is delegated by these Regulations to another Trust, then that Trust exercises the function in its own right; the receiving Trust has responsibility is to ensure that the proper delegation of the function is in place. In other situations, i.e. delegation to committees, sub committees or officers, the Trust delegating the function retains full responsibility.

**5.2 Emergency Powers and Urgent Decisions**

5.2.1 The powers which the Board has reserved to itself within these Standing Orders (see Standing Order 2.8 “Corporate Role of the Board”) may in emergency or for an urgent decision be exercised by the Chief Executive and the Chairman after having consulted at least two non-officer members. The exercise of such powers by the Chief Executive and Chairman shall be reported to the next formal meeting of the Trust Board in public session for formal ratification.

**5.3 Delegation to Committees**

5.3.1 The Board shall agree from time to time to the delegation of executive powers to be exercised by other committees, or sub-committees, or joint-committees, which it has formally constituted in accordance with directions issued by the Secretary of State. The constitution and terms of

reference of these committees, or sub-committees, or joint committees, and their specific executive powers shall be approved by the Board in respect of its sub-committees.

- 5.3.2 When the Board is not meeting as the Trust in public session it shall operate as a committee and may only exercise such powers as may have been delegated to it by the Trust in public session.

### **5.4 Delegation to Officers**

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

### **5.5 Scheme of Reservation and Scheme of Delegation**

- 5.5.1 The arrangements made by the Board as set out in the Scheme of Reservation and Scheme of Delegation shall have effect as if incorporated in these Standing Orders.

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

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



**6. OVERLAP WITH OTHER TRUST POLICY STATEMENTS/PROCEDURES, REGULATIONS AND STANDING FINANCIAL INSTRUCTIONS**

**6.1 Policy Statements : General Principles**

6.1.1 The Trust Board will from time to time agree and approve Policy statements/procedures which will apply to all or specific groups of staff employed by the Trust. The decisions to approve such policies and procedures will be recorded in an appropriate Trust Board minute and will be deemed where appropriate to be an integral part of the Trust's Standing Orders and Standing Financial Instructions.

**6.2 Specific Policy Statements**

6.2.1 Notwithstanding the application of Standing Order 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following Policy statements :-

- Standards of Business Conduct and Conflicts of Interest Policy for Trust staff;
- Staff Disciplinary and Appeals Procedures adopted by the Trust both of which shall have effect as if incorporated in these Standing Orders.

**6.3 Standing Financial Instructions**

6.3.1 Standing Financial Instructions adopted by the Trust Board in accordance with the Financial Regulations shall have effect as if incorporated in these Standing Orders.

**6.4 Specific Guidance**

6.4.1 Notwithstanding the application of Standing Order 6.1 above, these Standing Orders and Standing Financial Instructions must be read in conjunction with the following guidance and any other issued by the Secretary of State for Health :-

- Caldicott Guardian 1997;
- Human Rights Act 1998;
- Freedom of Information Act 2000.

**7. DUTIES & OBLIGATIONS OF BOARD MEMBERS/DIRECTORS & SENIOR MANAGERS UNDER THESE STANDING ORDERS**

**7.1 Declaration of Interests**

**7.1.1 Requirements for declaring interests and applicability to Board members**

The NHS Code of Accountability requires Trust Board members to declare interests which are relevant and material to the NHS Board of which they are a member. All existing Board members should declare such interests. Any Board members appointed subsequently should do so on appointment.

**7.1.2 Interests which are relevant and material**

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

- (i) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
- (ii) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- (iii) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- (iv) A position of authority in a charity or voluntary organisation in the field of health and social care;
- (v) Any connection with a voluntary or other organisation contracting for NHS services;
- (vi) Research funding/grants that may be received by an individual or their department;
- (vii) Interests in pooled funds that are under separate management.

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

**7.1.3 Advice on interests**

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

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

**7.1.4 Recording of interests in Trust Board minutes**

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

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

7.1.5 Publication of declared interests in the Annual Report

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

7.1.6 Conflicts of interest which arise during the course of a meeting

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

**7.2 Register of Interests**

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

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

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

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

7.3.1 Interpretation of “pecuniary interest”

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

- (i) “spouse” shall include any person who lives with another person in the same household (and any pecuniary interest of one spouse shall, if known to the other spouse, be deemed to be an interest of that other spouse);
- (ii) “contract” shall include any proposed contract or other course of dealing;
- (iii) subject to the exceptions set out in this Standing Order, a person shall be treated as having an indirect pecuniary interest in a contract if:-
  - he/she or a nominee of his/her, is a member of a company or other body (not being a public body), with which the contract is made, or to be made or which has a direct pecuniary interest in the same, or
  - he/she is a partner, associate or employee of any person with whom the contract is made or to be made or who has a direct pecuniary interest in the same.

- (iv) a person shall not be regarded as having a pecuniary interest in any contract if :-
- neither he/she or any person connected with him/her has any beneficial interest in the securities of a company of which he/she or such person appears as a member, or
  - any interest that he/she or any person connected with him/her may have in the contract is so remote or insignificant that it cannot reasonably be regarded as likely to influence him/her in relation to considering or voting on that contract, or
  - those securities of any company in which he/she (or any person connected with him/her) has a beneficial interest do not exceed £10,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less.
- Provided however, that where bullet point 3 above applies the person shall nevertheless be obliged to disclose/declare their interest in accordance with Standing Order 7.1.2.

7.3.2 Exclusion in proceedings of the Trust Board

- (i) Subject to the following provisions of this Standing Order, if the Chairman or a member of the Trust Board has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust Board at which the contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (ii) The Secretary of State may, subject to such conditions as he/she may think fit to impose, remove any disability imposed by this Standing Order in any case in which it appears to him/her in the interests of the National Health Service that the disability should be removed. (see Standing Order 7.3.3 on the “waiver” which has been approved by the Secretary of State for Health).
- (iii) The Trust Board may exclude the Chairman or a member of the Board from a meeting of the Board while any contract, proposed contract or other matter in which he has a pecuniary interest, is under consideration.
- (iv) Any remuneration, compensation or allowances payable to the Chairman or a member by virtue of paragraph 11 of Schedule 5A to the National Health Service Act 1977 (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this Standing Order.
- (v) This Standing Order applies to a committee or sub-committee and to a joint committee or sub-committee as it applies to the Trust and applies to a member of any such committee or sub-committee (whether or not he/she is also a member of the Trust) as it applies to a member of the Trust.

7.3.3 Waiver of Standing Orders made by the Secretary of State for Health

(i) Power of the Secretary of State to make waivers

Under regulation 11(2) of the NHS (Membership and Procedure Regulations SI 1999/2024 (“the Regulations”), there is a power for the Secretary of State to issue waivers if it appears to the Secretary of State in the interests of the health service that the disability in regulation 11 (which prevents a chairman or a member from taking part in the consideration or discussion of, or voting on any question with respect to, a matter in which he has a pecuniary interest) is removed. A waiver has been agreed in line with sub-sections (ii) to (iv) below.

(ii) Definition of “Chairman” for the purpose of interpreting this waiver

For the purposes of paragraph 7.3.3.(iii) (below), the “relevant chairman” is :-

- at a meeting of the Trust, the Chairman of that Trust;
- at a meeting of a Committee : in a case where the member in question is the Chairman of that Committee, the Chairman of the Trust; or in the case of any other member, the Chairman of that Committee.

(iii) Application of waiver

A waiver will apply in relation to the disability to participate in the proceedings of the Trust on account of a pecuniary interest.

It will apply to :-

- a member of the Trust, who is a healthcare professional, within the meaning of regulation 5(5) of the Regulations, and who is providing or performing, or assisting in the provision or performance, of :-
  - a) services under the National Health Service Act 1977; or
  - b) services in connection with a pilot scheme under the National Health Service Act 1997;for the benefit of persons for whom the Trust is responsible.
- where the pecuniary interest of the member in the matter which is the subject of consideration at a meeting at which he is present:-
  - a) arises by reason only of the member’s role as such a professional providing or performing, or assisting in the provision or performance of, those services to those persons;
  - b) has been declared by the relevant chairman as an interest which cannot reasonably be regarded as an interest more substantial than that of the majority of other persons who are members of the same profession as the member in question or who are providing or performing, or assisting in the provision or performance of, such of those services as he provides or performs, or assists in the provision or performance of, for the benefit of persons for whom the Trust is responsible.

(iv) Conditions which apply to the waiver and the removal of having a pecuniary interest

The removal is subject to the following conditions:

- the member must disclose his/her interest as soon as practicable after the commencement of the meeting and this must be recorded in the minutes;
- the relevant chairman must consult the Chief Executive before making a declaration in relation to the member in question pursuant to paragraph 7.3.3(ii) above, except where that member is the Chief Executive;
- in the case of a meeting of the Trust the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded, but may not vote on any question with respect to it.
- in the case of a meeting of a Committee the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded, and may vote on any question with respect to it, but the resolution which is subject to the vote must comprise a recommendation to, and be referred for approval by, the Trust Board.

## 7.4 Standards of Business Conduct

### 7.4.1 Trust Policy and National Guidance

All Trust staff and members of the Board must comply with the Trust's Standards of Business Conduct and Conflict of Interests Policy and the national guidance contained in HSG(93)5 "Standards of Business Conduct for NHS Staff" (reproduced in the appendix to these Standing Orders).

### 7.4.2 Interest of Officers in Contracts

Any officer or employee of the Trust who comes to know that the Trust has entered into or proposes to enter into a contract in which he/she or any person connected with him/her (as defined in Standing Order 7.3) has any pecuniary interest, direct or indirect, the Officer shall declare their interest by giving notice in writing of such fact to the Chief Executive or Trust's Company Secretary as soon as practicable.

An officer should also declare to the Chief Executive any other employment or business or other relationship of his/her, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict with the interests of the Trust.

The Trust will require interests, employment or relationships so declared to be entered in a register of interests of staff.

7.4.3 Canvassing of and Recommendations by Members in Relation to Appointments

Canvassing of members of the Trust or of any Committee of the Trust directly or indirectly for any appointment under the Trust shall disqualify the candidate for such appointment. The contents of this paragraph of the Standing Orders shall be included in application forms or otherwise brought to the attention of candidates.

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

7.4.4 Relatives of Members or Officers

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

The Chairman and every member and officer of the Trust shall disclose to the Trust Board any relationship between himself and a candidate of whose candidature that member or officer is aware. It shall be the duty of the Chief Executive to report to the Trust Board any such disclosure made.

On appointment, members (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other member or holder of any office in the Trust.

Where the relationship to a member of the Trust is disclosed, the Standing Order headed "Exclusion of Chairman and Members in Proceedings on Account of Pecuniary Interest" (Standing Order 7.3) shall apply.

**8. CUSTODY OF SEAL, SEALING OF DOCUMENTS AND SIGNATURE OF DOCUMENTS**

**8.1 Custody of Seal**

8.1.1 The Common Seal of the Trust shall be kept by the Chief Executive or a nominated manager by them in a secure place.

**8.2 Sealing of Documents**

8.2.1 Where it is necessary that a document shall be sealed, the seal shall be affixed in the presence of two senior managers duly authorised by the Chief Executive, and not also from the originating department, and shall be attested by them.

**8.3 Register of Sealing**

8.3.1 An entry of every sealing shall be made and numbered consecutively in a book provided for that purpose, and shall be signed by the persons who shall have approved and authorised the document and those who attested the seal.

**8.4 Use of Seal – General Guide**

8.4.1 The seal should be used for :-

- all contracts for the purchase/lease of land and/or buildings
- all contracts for capital works exceeding £100,000
- all lease agreements where the annual lease charge exceeds £10,000 per annum and the period of the lease exceeds beyond five years
- any other lease agreement where the total payable under the lease exceeds £100,000
- any contract or agreement with organisations other than NHS or other government bodies including local authorities where the annual costs exceed or are expected to exceed £100,000.

**8.5 Signature of Documents**

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

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



**9. MISCELLANEOUS**

**9.1 Standing Orders to be Given to Members and Officers**

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

**9.2 Review of Standing Orders**

9.2.1 Standing Orders shall be reviewed annually by the Board. The requirement for review extends to all documents having the effect as if incorporated in Standing Orders.

**9.3 Joint Finance Arrangements**

See overlap with Standing Financial Instruction 12.3 “Joint Finance Arrangements With Local Authorities and Voluntary Bodies”.

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

(Standing Orders)

Appendix 1

January 1993

# Standards of business conduct

for NHS staff

**Prevention of Corruption Acts 1906 and 1916 - summary of main provisions**

**Acceptance of gifts by way of Inducements or rewards**

1. Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
  - doing, or refraining from doing, anything in their official capacity; or
  - showing favour or disfavour to any person in their official capacity.
  
2. Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves the contrary.

**NHS Management Executive (NHSME) - general guidelines**

**Introduction**

1. These guidelines, which are intended by the NHSME to be helpful to all NHS employers and their employees, re-state and reinforce the guiding principles previously set out in Circular HM(62)21 (now cancelled), relating to the conduct of business in the NHS.

**Responsibility of NHS employers**

2. NHS employers are responsible for ensuring that these guidelines are brought to the attention of all employees; also that machinery is put in place for ensuring that they are effectively implemented.

**Responsibility of NHS staff**

3. It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties. This primary responsibility applies to all NHS Staff, i.e. those who commit NHS resources directly (e.g. by the ordering of goods) or those who do so indirectly (e.g. by the prescribing of medicines). A further example would be staff who may have an interest in a private nursing home and who are involved with the discharge of patients to residential facilities.

**Guiding principle in conduct of public business**

4. It is a long established principle that public sector bodies, which include the NHS, must be impartial and honest in the conduct of their business, and that their employees should remain beyond suspicion. It is also an offence under the Prevention of Corruption Acts 1906 and 1916 for an employee corruptly to accept any inducement or reward for doing, or refraining from doing anything, in his or her official capacity, or corruptly showing favour, or disfavour, in the handling of contracts (see PART A).

Staff will need to be aware that a breach of the provisions of these Acts renders them liable to prosecution and may also lead to loss of their employment and superannuation rights in the NHS.

**Principles of conduct in the NHS**

5. NHS staff are expected to:
  - ensure that the interest of patients remains paramount at all times;
  - be impartial and honest in the conduct of their official business;
  - use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.
6. It is also the responsibility of staff to ensure that they do **not**:

- abuse their official position for personal gain or to benefit their family or friends;
- seek to advantage or further private business or other interests, in the course of their official duties.

### **Casual gifts**

7. Casual gifts offered by contractors or others, e.g. at Christmas time, may not be in any way connected with the performance of duties so as to constitute an offence under the Prevention of Corruption Acts. Such gifts should nevertheless be politely but firmly declined. Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or their relatives, need not necessarily be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

### **Hospitality**

8. Modest hospitality provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer.
9. Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they should seek advice from their line manager.

### **Declaration of interests**

10. NHS employers need to be aware of all cases where an employee, or his or her close relative or associate, has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the employing authority.
11. All NHS staff should therefore declare such interests to their employer, either on starting employment or on acquisition of the interest, in order that it may be known to and in no way promoted to the detriment of either the employing authority or the patients whom it serves.
12. One particular area of potential conflict of interest, which may directly affect patients, is when NHS staff hold a self-beneficial interest in private care homes or hostels. While it is for staff to declare such interests to their employing authority, the employing authority has a responsibility to introduce whatever measures it considers necessary to ensure that its interests and those of patients are adequately safeguarded. This may for example take the form of a contractual obligation on staff to declare any such interests. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.
13. In determining what needs to be declared, employers and employees will wish to be guided by the principles set out in paragraph 5 above.

14. NHS employers should:
- ensure that staff are aware of their responsibility to declare relevant interests (perhaps by including a clause to this effect in staff contracts)
  - consider keeping registers of all such interests and making them available for inspection by the public.
  - develop a local policy, in consultation with staff and local staff interests, for implementing this guidance. This may include the disciplinary action to be taken if an employee fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self-benefit, or that of family or friends.

#### **Preferential treatment in private transactions**

15. Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of their NHS employer. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff - for example, NHS staff benefits schemes.)

#### **Contracts**

16. All staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign Purchase Orders, or place contracts for goods, materials or services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS), reproduced at PART C.

#### **Favouritism in awarding contracts**

17. Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. This means that:
- no private, public or voluntary organisation or company which may bid for NHS business should be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors, whether or not there is a relationship between them and the NHS employer, such as a long-running series of previous contracts.
  - each new contract should be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.
18. NHS employers should ensure that no special favour is shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant managerial capacity. Contracts may be awarded to such businesses where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

### **Warnings to potential contractors**

19. NHS employers will wish to ensure that all invitations to potential contractors to tender for NHS business include a notice warning tenderers of the consequences of engaging in any corrupt practices involving employees of public bodies.

### **Outside employment**

20. NHS employees are advised not to engage in outside employment, which may conflict with their NHS work, or be detrimental to it. They are advised to tell their NHS employing authority if they think they may be risking a conflict of interest in this area: the NHS employer will be responsible for judging whether the interests of patients could be harmed, in line with the principles in paragraph 5 above. NHS employers may wish to consider the preparation of local guidelines on this subject.

### **Private practice**

21. Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in NHS hospitals subject to the conditions outlined in the handbook "A Guide to the Management of Private Practice in the NHS". (See also PM(79)11). Consultants who have signed new contracts with Trusts will be subject to the terms applying to private practice in those contracts.
22. Other grades may undertake private practice or work for outside agencies, providing they do not do so within the time they are contracted to [he NHS, and they observe the conditions in paragraph 20 above. All hospital doctors are entitled to fees for other work outside their NHS contractual duties under "Category 2" (paragraph 37 of the TCS of Hospital Medical and Dental staff), e.g. examinations and reports for life insurance purposes. Hospital doctors and dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours. Career grade medical and dental staff employed by NHS Trusts may agree terms and conditions different from the National Terms and Conditions of Service.

### **Rewards for Initiative**

23. NHS employers should ensure that they are in a position to identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties) in respect of work commissioned from third parties, or work carried out by their employees in the course of their NHS duties. Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this NHS employers should build appropriate specifications and provisions into the contractual arrangements, which they enter into *before* the work is commissioned, or begins. They should always seek legal advice if in any doubt in specific cases.

24. With regard to patents and inventions, in certain defined circumstances the Patents Act gives *employees a right* to obtain some reward for their efforts, and employers should see that this is effected. Other rewards may be given voluntarily to employees who within the course of their employment have produced innovative work of outstanding benefit to the NHS. Similar rewards should be voluntarily applied to other activities such as giving lectures and publishing books and articles.
  
25. In the case of collaborative research and evaluative exercises with manufacturers, NHS employers should see that they obtain a fair reward for the input they provide. If such an exercise involves additional work for an NHS employee outside that paid for by the NHS employer under his or her contract of employment, arrangements should be made for some share of any rewards or benefits to be passed on to the employee(s) concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.



**Institute of Purchasing and Supply - Ethical Code**

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**Introduction**

1. The code set out below was approved by the Institute's Council on 26 February 1977 and is binding on IPS members.

**Precepts**

2. Members shall never use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:
  - a. maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed;
  - b. fostering the highest possible standards of professional competence amongst those for whom they are responsible;
  - c. optimising the use of resources [or which they are responsible to provide the maximum benefit to their employing organisation;
  - d. complying both with the letter and the spirit Of;
    - i. the law of the country in which they practise;
    - ii. such guidance on professional practice as may be issued by the Institute from I
    - iii. contractual obligations;
  - e. rejecting any business practice which might reasonably be deemed improper.

**Guidance**

3. In applying these precepts, members should follow the guidance set out below:
  - a. Declaration of interest. Any personal interest, which may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter relevant to his or her duties should be declared.
  - b. Confidentiality and accuracy of information. The confidentiality of information received in the course of duty should be respected and should never be used for personal gain; information given in the course of duty should be true and fair and never designed to mislead.
  - c. Competition. While bearing in mind the advantages to the member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided.
  - d. Business Gifts. Business gifts other than items of very small intrinsic value such as business diaries or calendars should not be accepted.
  - e. Hospitality. Modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality;

- the frequency and scale of hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return.
- f. when it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.